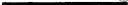

SECURITIES AND FUTURES MARKETS

**Cross-Border
Information Sharing Is
Improving, but
Obstacles Remain**



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United States
General Accounting Office
Washington, D.C. 20548

General Comments (Rebuke)

5-24787

July 21, 1993

The Honorable Edward J. Markey
Chairman, Subcommittee on Telecommunications
and Finance
Committee on Energy and Commerce
House of Representatives

Dear Mr. Chairman:

This report responds to your request that we examine international regulatory efforts to improve cross-border information sharing in securities and futures markets. The report examines the need to share information, the strengths and weaknesses of different kinds of agreements, the types of information exchanged, and legal and regulatory obstacles to improving the exchange of information.

We are sending copies of this report to interested Members of Congress, appropriate committees, executive branch agencies, and foreign financial regulators. Copies will also be made available to others upon request.

Major contributions to this report are listed in appendix F. If there are any questions concerning the contents of this report, please call me at (202) 775-4475.

Sincerely yours,

Craig A. Russell
Director, Financial Institutions
and Markets Issues

Executive Summary

Purpose

In a recent international stock article, investors in as many as 41 countries were alleged to have been defrauded of over \$4.5B million. Regulators operating on their own in each of these countries may not have been able to fully investigate this far-reaching alleged crime due to limited law scope or jurisdiction; thus regulators needed to share information with their foreign counterparts. Information sharing is one of the best defenses U.S. and foreign regulators have against unscrupulous persons who spread their activities among many countries and make it difficult for any one regulator to investigate fraud or other abusive practices. However, international securities and finance markets will operate under national legal and regulatory structures that can inhibit information sharing.

Concerned about whether U.S. regulators and exchanges are able to provide adequate oversight of international market activity, the Chairman of the Subcommittee on Telecommunications and Finance, House Committee on Energy and Commerce, requested that this definition (1) the types of information various national securities and finance regulators need to share in order to fulfill their market oversight responsibilities, (2) the extent to which information is currently shared, (3) the types and adequacy of arrangements used for sharing information, (4) whether and what kinds of impediments exist to sharing information and how these can be overcome, and (5) the effectiveness of existing international organizations in addressing issues related to international information sharing.

Background

Across-border trading has increased exponentially in the past decade, so too have the opportunities for illegal or improper activities to be perpetrated by individuals operating outside the legal jurisdiction of the country whose markets are being abused. As a result, the information needed by regulators in the United States and other countries to detect and prevent fraud and other abuses in their markets often exists beyond their borders. Generally, regulators need information from their foreign counterparts to (1) enforce laws or regulations such as those prohibiting fraud, insider trading, or market manipulation; (2) ensure that international securities and finance firms comply with financial and other operational requirements; and (3) ensure the trading activity of market participants to help detect illegal activities.

In the past, regulators were therefore not unilateral or other methods, such as subpoenas, to obtain foreign-based information. However, these approaches were often time-consuming, expensive, and uncertain in their

existence, however, they were considered by many countries to be an infringement on their national sovereignty. More recently, regulations have focused on developing cooperative relationships and negotiating information sharing agreements with their foreign counterparts.

Results in Brief

U.S. regulations have made significant progress in recent years in improving their access to foreign-based information through both formal and informal approaches. They have negotiated new bilateral information-sharing agreements and improved existing agreements. They have also initiated changes in laws and regulations in the United States and encouraged other changes overseas to improve information sharing. The progress they have made is attributable to both a greater emphasis by U.S. regulators on international information sharing and the efforts of regulations involved in organizations such as the International Organization of Securities Commissions, the Polémique Internationale des Bourses de Valeurs, and the U.S.-Based International Regulators Group to promote a greater understanding within the worldwide community of the need for information sharing and cooperation.

Despite this progress, however, U.S. regulations are still unable to obtain all the information they need. Much of the remaining impediments to information sharing result from legal and regulatory structures in foreign countries that do not provide their regulatory officials the power to compel or share information and that U.S. regulations cannot control. However, information-sharing impediments also exist in the United States with respect to the regulatory authority of the futures market regulator, the Commodity Futures Trading Commission (CFTC). The Commodity Exchange Act does not explicitly provide CFTC with the authority to (1) conduct investigations solely on behalf of a foreign regulator, (2) receive more fully than confidential information received from foreign regulators in connection to third parties in response to a Freedom of Information Act request, and (3) share confidential information with foreign exchanges or self-regulatory organizations. The securities market regulator, the Securities and Exchange Commission (SEC), retained these powers in 1988. Legislative changes are needed to provide CFTC with these powers.

Principal Findings

Regulators Have Made Progress in Sharing Information

In the early 1990s, U.S. regulators made few requests for foreign-based information. They often had difficulty obtaining from foreign authorities information necessary to investigate possible violations of U.S. securities and futures laws. Since the mid 1990s, however, information-sharing between U.S. and foreign securities and futures regulators has improved. U.S. federal and self-regulatory officials told us that they are sharing significant amounts of information on an informal basis through improved relations with their foreign counterparts. In addition, federal regulators have entered into 33 information-sharing agreements since January 1999. Furthermore, mutual arms control an existing agreement with U.S. regulatory officials to make it more comprehensive. U.S. exchanges have 40 information-sharing agreements with their foreign counterparts. (See pp. 37-39.)

SEC has recently requested and received changes to its legislative authority that allow it to compel information at the request of a foreign regulator even when no SEC rule violation is alleged, guarantee a broader range of confidential treatment of information, and make explicit its authority to pass proprietary information directly to foreign self-regulatory organizations. Similarly, several foreign countries, such as France, Japan, and the United Kingdom, have strengthened their authorities laws to allow their regulators to compel testimony and the production of documents for foreign regulators. CFTC has also requested these authorities that has not yet received them. (See pp. 33-35.)

International Organizations Are Working to Improve Information Sharing

Three international organizations have taken initiatives to improve information-sharing among the regulators of various countries. The International Organization of Securities Commissions, with more than 80 countries represented, has created a group to work on information-sharing issues and has issued principles for information sharing. The International Association for Futures in Futures, an association of securities exchanges, has encouraged its members to enter into cooperative information-sharing arrangements with their foreign counterparts. (See pp. 35-37.)

The International Surveillance Group, an organization comprising the heads of surveillance departments of securities and futures exchanges, has

continued to add foreign organizations to its original U.S.-only membership; the most recent of these additions are from Canada and the Netherlands. Member exchanges share surveillance information and coordinate investigations of suspicious trading activities. (See pp. 31-32.)

Despite Progress, Regulators Still Encounter Barriers to Information Sharing

Despite their progress, securities and futures regulators are still hindered in information sharing by existing legal and regulatory structures. For example, in some countries, blocking laws can prohibit the disclosure, copying, inspection, or removal of certain documents. In others, bank secrecy laws may prohibit the disclosure of information regarding the clients of a bank. Some countries lack a statutory regulator for securities and futures markets with which to exchange information or negotiate information-sharing agreements. In others, regulatory authorities may not have the power to share information with foreign authorities. (See pp. 33-44.)

Other problems also can hamper information sharing such as differing technical and resource capabilities of regulators, the inability to obtain information from countries with ongoing criminal proceedings, and laws that require violations to be criminal offenses in all the countries involved before information can be shared. Because many of these problems exist in foreign countries, U.S. regulators cannot solve them directly; however, U.S. regulators are encouraging other countries to make changes necessary to improve information sharing. (See pp. 45-47.)

Barriers to information sharing also exist in the United States. CFTC does not have a federal legislative authority for sharing information as does not, nor does its statutory mandate explicitly provide CFTC the legal authority to conduct investigations solely on behalf of a foreign counterpart as does the majority of its) and as do many foreign regulators. In addition, CFTC—unlike SEC—does not have a federal exemption from disclosure under the requirements of the U.S. Freedom of Information Act. Consequently some foreign regulatory officials have expressed concerns that CFTC may be required to release information obtained from them, even if foreign laws prohibit the release of such information. Finally, CFTC generally cannot share confidential information with foreign self-regulatory organizations or exchanges. As a result of CFTC's lack of legal authority in these areas, it has been unable to make fully effective an enforcement information-sharing agreement with France and to fully share information with certain other foreign counterparts. (See pp. 48-50.)

Recommendations

Our recommendations that Congress provide CFTC with the legislative authority to (1) obtain information on behalf of a foreign regulator in order to answer that regulator's request without regard to whether the request raises a possible violation of U.S. law, (2) guarantee absolutely the confidentiality of information provided to it by foreign regulatory authorities, and (3) pass comparable information directly to foreign self-regulatory organizations.

Agency Comments

SEC and CFTC officials provided written comments on a draft of this report. Our copies (E and F) SEC generally agrees with the report and believes that regulators have the political will and the legal authority to cooperate. SEC said that regulators worldwide are committed to breaking down the remaining barriers to cooperation. CFTC generally agrees with the report and notes that it has been asking Congress for the legislative authority embodied in the last recommendation since January 2000. CFTC said that it is committed to working with Congress to completing CFTC's reauthorization bills so that this and other important regulatory issues can be resolved.

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Abbreviations

CFTC	Commodity Futures Trading Commission
COM	Commission des Opérations de Bourse
EC	European Community
FEI	Fédération Internationale des Bourses de Valeurs
FOIA	Freedom of Information Act
IOSCO	International Organization of Securities Commissions
IOSG	International Surveillance Group
IOSI	International of Understanding
IOSJ	Securities and Investments Board
IOSK	Securities and Exchange Commission
IOSL	self-regulatory organization

international stock markets that may have deflated revenues in as many as 35 countries of over 100 million, securities regulators and legal authorities in numerous countries, including France, Switzerland, the United Kingdom, and the United States, worked cooperatively to investigate the case. Above, my single national populace might have been able to file lawsuits, place demands or identify the perpetrators.

For regulators to properly enforce laws and regulations in global securities and futures markets, they need to share information with their foreign counterparts. For example, to enforce laws and pursue investigations involving foreign investors or markets, regulators may need information and evidence from overseas. Specifically, one official may need market surveillance information from their foreign counterparts to determine whether illegal activities are taking place. Learning officials also require information from abroad to verify the financial statements and disciplinary history of foreign broker-dealers or futures commission merchants seeking to conduct financial operations in the United States. Further, regulators may need information from foreign sources to evaluate the financial soundness of foreign firms doing business in their jurisdiction. Finally, regulators may seek foreign-based information concerning the policies and regulations of foreign regulatory bodies and their role in order to understand their respective authorities on market rules and operations.

The information needs of these securities and futures market regulators can accordingly be categorized into four areas: enforcement, compliance, surveillance, and technical analysis information.

Relevant information is needed to protect investors and promote fair markets by, among other things, identifying and preventing the perpetration of illicit practices.¹ Request for relevant information can be initiated by a regulatory authority on the basis of its suspicion that an illegal activity has occurred, is occurring, or is about to occur. Such a request may seek access to trading records, transaction or customer data and bank account information, and credit-card and telephone records related to a foreign jurisdiction. The testimony of persons involved in the foreign jurisdiction may also be needed. Institutions can take information to help

¹Only third page (B1, C1, and D1). EC's Office of International Affairs reported mailing B1, C1, and D1 separately for information to foreign governments and receiving B1, C1, and D1 foreign intelligence information, respectively. Although most of these reports have not yet been released, related information can be seen in historical catalogs. Foreign Intelligence B1, C1, and D1, 1970-1975. Office of International Affairs and Institute of Training and Research. Archived catalog, 1976, and to be released to foreign governments and providing B1, C1, and D1 foreign reports, respectively. These reports are available at www.fia.gov.

them analyze the transactions related to suspicious activity, which may include documenting that certain individuals were involved in an illegal activity. In addition, an enforcement-related request may seek accounting records of foreign subsidiaries of corporations to ensure that proper disclosure has been made to the requesting country's investors.

Compliance Information

Compliance information is needed to ensure the financial and operational soundness of market participants. A regulatory authority may request (i) compliance information when considering an application by a foreign individual or firm to conduct securities or futures business in the requesting authority's country;¹ (ii) initial and periodic data regarding a firm's compliance with capital adequacy and other financial requirements; and (iii) data regarding the financial health of persons or subsidiaries of the regulated entity and timely notification of any significant problem with those overseas affiliates.

U.S. regulators have exempted foreign firms from U.S. regulatory laws² in part on the ability of U.S. regulators to access compliance information from foreign regulators and firms. For example, CFTC may allow foreign firms that submit and accept orders from U.S. customers for foreign futures and securities transactions to follow the regulations of their home country. This exemption from U.S. regulations would depend on CFTC obtaining trading and financial information from foreign regulators, exchanges, and firms for customer protection purposes.

Surveillance Information

Surveillance information is needed to ensure the integrity of securities and futures markets and generally to enhance market supervision. Such information includes data about trading activity, in particular securities or futures instruments, and about the total positions of those participating in multiple international markets. This information can be used, for example, to help detect a market participant who is using manipulative information or attempting to corner or squeeze the market for a particular product,³ or can also be used to detect potential intermarket trading abuses, especially

¹For the United States this includes "regulatory information," verification data, or the fulfillment of approvals, business activities, and other information relating to the regulatory, disciplinary, or criminal history of the person. Such information would provide a person or firm that participating in securities and futures markets.

²Where a firm has entered each relevant market of an international jurisdiction's supply that its subject matter is exempted, the regulator is not to have received the matter. It appropriately trading of securities or other financial assets based to ensure those trading to allow their problems to be in multiple parties.

those involving the stock and options markets. Also, U.S. regulators may need information on participants in an initial distribution of securities and those who purchase or believe others to purchase these securities.

Technical and Policy Information

Regulators request technical and policy information from one another in order to better understand a counterpart's laws or market rules and operations. Such requests may seek information on the structure or future laws and regulations of a counterpart's country; explanations of the counterpart's regulatory powers and responsibilities; or information on how to develop, manage, and regulate securities or futures markets. For example, the Office of Economic Analysis may seek foreign information in part of monitoring overseas markets to assess their economic, regulatory, and institutional changes and to evaluate the impact of such changes on U.S. markets and on regulations. Also, the office is responsible for coordinating cross border securities offerings and trading requires it to identify differences in disclosure requirements and accounting standards in other countries.

SEC officials told us they share a significant amount of information concerning futures regulations or market operations with foreign counterparts. For example, SEC officials hold discussions with regulators in the United Kingdom, France, Japan, and Singapore concerning the possible impacts of the Pension Bill War on all futures and stock index futures and other financial instruments. On a routine basis, SEC and CFTC provide information about their experiences in regulating U.S. securities and futures markets to emerging markets and to developed markets that are exploring alternative methods to achieving a particular regulatory goal.

Securities and Futures Market Regulators Have Used Several Approaches to Obtain and Share Information

SEC and foreign regulatory and exchange officials share information through several different methods. In some cases, officials share information informally with their foreign counterparts—that is, they simply request information through telephone conversations or letters when the information is needed. U.S. and foreign regulatory and exchange officials also share information through formal negotiated information sharing agreements. Obviously, the type of agreement makes the intent of the parties to share information and establishes the methods that will be used to provide information and assistance. Such an agreement is often called a memorandum of understanding (MOU), but it is also referred to by other names, such as an administrative agreement or

symposium, depending on the complexity and legal status.¹ Almost all of these agreements are bilateral—that is, between two countries. However, the United States is also a party to some multilateral agreements. (See table 1.1, 1.2, and 1.3 in app. 1.)

Mutual legal assistance treaties dealing with criminal matters are another type of bilateral agreement for sharing information. Although these treaties are used for criminal matters, mutual legal assistance treaties to obtain information abroad as long as the information is needed for an investigation relating to the subject of a potential criminal action. These treaties are formal agreements that are negotiated between governments, rather than between regulatory or exchange officials, and are binding under international law. (See table 1.4 in app. 1.)

U.S. regulatory authorities may also use unilateral or other methods to obtain foreign-based information, including investigative subpoenas, letters of request,² or inquiries by diplomatic officers or consular officers. An investigative subpoena is an administrative document requiring someone to testify. The United States cannot force the unilateral power to subpoena witnesses from any place in the United States, and those witnesses may be required to produce evidence under their control that is located abroad. The U.S. also has the power to subpoena witnesses located in foreign countries, although it has not exercised that power.

Once U.S. regulators file a legal action, they may obtain foreign-based evidence by requesting the U.S. court to issue a letter of request for assistance to a foreign court. They may also request that a consular official or private consular officer gather evidence abroad. However, each of these methods has limitations that may make it difficult for U.S. regulatory officials to obtain the foreign-based information. For example, many foreign governments consider subpoenas to be an infringement on a country's sovereignty. Also, a person served with a letter of request may refuse to provide the requested evidence.

The Chairman of the Subcommittee on Telecommunications and Finance, House Committee on Energy and Commerce, reported that we investigate the current state of international information sharing between U.S.

¹Throughout this report, we use the word “agreement” to refer to types of information sharing arrangements, including treaties that are binding under international law and those that are nonbinding in effect and are not legally binding.

²The language for letters of request is “letters rogatory.” These letters may originate from U.S. courts to request information from foreign countries, generally when a lawsuit has been filed.

police and judicial authorities. In addition, we met with officials of the International Organization of Securities Commissions (IOSCI), the Parlamento Interamericano del Sistema de Valores (PISV), and the International Barredness Group (IBG), as well as with officials of the U.S. Mission to the European Community and the Commission of the European Communities. A complete listing of organizations contacted is contained in appendix E.

We spoke to officials about: (1) the development and evolution of information sharing in securities and futures markets over the past 20 years; (2) legal and regulatory reasons for requesting certain types of information; (3) the formal as well as informal nature of information sharing; (4) the advantages and disadvantages of voluntary, bilateral, and multilateral approaches to information sharing; (5) individual, organizational, regulatory, and legal factors leading to the success or failure of individual requests for information; (6) the role played by administrators of justice, international, and regional organizations; and (7) legislation for the United States of the current state of affairs in information sharing.

We obtained informal comments on a draft of this report from regulators in the 13 countries included in its scope. We obtained formal comments on a draft of this report from several CROs (see app. E) and IVAs (see appendix). We also obtained technical comments from FBI and ATF, which we have incorporated in the report. We did our review from February 1994 to February 1995 in accordance with previously accepted government writing standards.

Regulators and Exchanges Have Made Progress in Sharing Information

In the early 1990s, U.S. regulators made few requests for foreign-based information. They often had difficulty obtaining from foreign authorities information necessary to investigate possible violations of U.S. securities and future laws. Since the mid-1990s, however, information sharing between U.S. and foreign securities and futures regulators has improved. This improvement is due, in part, to U.S. regulators' increased emphasis on establishing cooperative relationships with their foreign counterparts and developing bilateral information-sharing agreements.

Information Sharing Had Been Limited

U.S. regulators made few requests for foreign-based information before the mid-1990s and had limited contact with their counterparts in foreign countries. The outcome of the requests that were made often proved unsatisfactory. When U.S. regulators found themselves increasingly in need of foreign-based information because of the increasing volume of international securities and futures trading, they had difficulty obtaining this information in a timely manner and sometimes were not able to obtain information at all. Foreign blocking and secrecy laws hindered them, and unilateral and other efforts to obtain information from foreign persons were often adversarial, time-consuming, and expensive. Moreover, foreign governments sometimes considered unilateral efforts to be an infringement on their national sovereignty. In addition, U.S. authorities could not depend on the outcomes of their efforts because such cases were dependent in most instances. Because of these difficulties, U.S. regulators explored alternative approaches to obtaining foreign-based information.

Foreign Blocking and Bank Secrecy Laws Hindered Voluntary Information Sharing

Foreign blocking laws generally prohibit the disclosure, copying, inspection, or removal of certain information located in the home country. These laws often prohibit even voluntary disclosure of information to foreign governments for use in legal or other official proceedings. Blocking laws most often protect certain types of information related to international commerce or trade, national security, and economic matters. In some countries, blocking laws apply to documents that relate to certain industries such as nuclear or national defense industries. In other countries, they apply to all types of commercial information. Although the scope of blocking laws varies among countries, the intent of these laws is the same: to protect the national interests of the home country by preventing foreigners from obtaining certain types of information.

Banking laws are not intended to inhibit national activity. However, in fulfilling national goals, some laws may constrain information flowing. For example, France's blocking law prohibits French citizens and organizations from communicating economic, commercial, industrial, financial, or technical information to foreign authorities if such information affects French sovereignty, national security, essential economic interests, or public order, unless the information is covered by international treaties or agreements. The law also bans the sharing of such information with foreign authorities for foreign judicial or administrative proceedings. However, the Commission des Opérations de Bourse (COB) and the Banking Commission are exempt from the French blocking law.

Bank secrecy laws are designed to protect customer interests.¹ They prohibit the disclosure of any information regarding a customer's identity or banking activities, unless the customer waives the right to secrecy or a particular country's procedures allow the release of such information.² However, in doing so, these laws may provide a safe haven from which citizens of the United States and foreign countries can engage in illegal trading in U.S. markets. For example, if an individual opens an account at a bank in a country with bank secrecy laws, the customer can direct the bank to execute an order through a U.S. broker-dealer. Under such circumstances, U.S. officials initially may only be able to identify the institution placing the order, not the identity of the individual. That information is available from the foreign bank, and the bank secrecy laws of the foreign country can prevent, or at least delay, U.S. officials from obtaining the individual's identity.³

¹Not just any government/institutional government operates into data confidentiality. The Right to Privacy (Privacy Act of 1974, 50 USC) strictly limits disclosure of data which a government institution may disseminate. Federal Reserve and information in a country's financial records. The nation's government authority may disseminate financial records under a court order or their origin administrative purposes need to cooperate with a government law enforcement agency. That government authority may decide to file a petition that it has verified the customer and give the customer the opportunity to challenge the evidence. Customer order data government may prevent financial records from being filed outside a country.

²Under bank secrecy laws, clients may waive their right to privacy because the laws are designed to protect the right of the individual. However, in the event, banking laws protect national interests and financial records generally to protect national security.

³An individual may also provide purchase and sales through a number of different financial intermediaries, such as stock exchanges or other foreign banks or an individual/institution. This practice makes it very hard difficult and time-consuming for regulators to track potential illegal trading. Different institutions may have different interpretations of the laws to solve a financial intermediary was involved in overlooking a crime.

SBC and CFTC Have Used a Variety of Methods to Attempt to Obtain Foreign Information

Because obtaining real-time evidence from often reluctant and not used CRO requests for voluntary cooperation from foreign institutions, U.S. regulators instead tried unsuccessfully to compel or otherwise obtain the production of foreign-based evidence through U.S. federal courts. Certain attempts were successful but more often unsuccessful, time-consuming, and expensive. In some cases, the regulators' attempts also strained international relations. Because the regulators' requests were decided on a case-by-case basis, the results were generally unreliable.

The principal unilateral methods used to gather information from abroad include investigative subpoenas or discovery processes for the preservation of a lawsuit. The investigative subpoena is one of the most basic tools available for gathering evidence. When an anti-corn official investigates potential violations of the securities and foreign laws, they have the power to subpoena witnesses "from any place in the United States." This practice has been obstructed by U.S. courts as going out and over the ability to issue a subpoena to obtain evidence controlled from the United States, but located any place in the world, as long as the subpoena is properly served in the United States.⁴ An anti-corn official then could attempt to enforce compliance with a subpoena calling for the information to be provided outside the United States. In practice, many foreign governments often consider these efforts to be an infringement on their country's sovereignty.

Once U.S. regulators have filed a lawsuit, they may, in some cases, obtain a court order to compel the production of records and documents located abroad. A court may enforce its order under Rule 37 of the Federal Rules of Civil Procedure, which authorizes the court to impose a wide range of sanctions for failure to comply with a discovery action.⁵ Discovery motions made under this rule, however, are judged on a case-by-case basis and can be time-consuming. The efforts of regulators to obtain evidence using this rule have been only partially successful. Also, U.S. regulators need other useful information for investigative purposes, whereas this rule is only applicable after regulators have filed a lawsuit.

⁴ U.S. administrative agencies, which include IRS and CFTC, do not have the power to compel compliance with a federal subpoena that do not have jurisdiction over the foreign nation in question. Evidence for an investigation, relying on reciprocity is avoided by using CROs for such as application to countries with financial market cooperative status. However, CROs do not guarantee the power.

⁵ Discovery motion is an application to a court made to order forcing the delivery of facts or documents.

U.S. regulators also can use the Hague Convention² to obtain foreign-based evidence from third parties once they have filed a lawsuit.³ The Hague Convention, which has been signed by many countries since being opened for signature in 1900, creates procedures for obtaining evidence located in foreign countries related to civil or commercial matters. The Hague Convention does not apply to criminal proceedings. Under the Hague Convention, regulators may try to obtain foreign-based evidence through evidence gathering by a U.S. consular official or private investigators or through letters of request issued by a judicial authority. When the officials or investigators gather evidence abroad following the Hague Convention, they must first obtain permission from the foreign country's authorities to gather evidence and follow evidence-gathering procedures consistent with that foreign country's law. Under the Hague Convention, U.S. regulators may also request that a U.S. court issue a letter to a foreign judicial authority requesting information.⁴ However, the information that can be obtained by making a request under the Hague Convention may be limited. For example, a person who is served with a letter of request may refuse to provide the requested evidence if that person has a privilege or duty to refuse under the laws of the foreign country. This refusal may cause delays of requests or create delays in obtaining information.

During the early to mid-1990s, U.S. regulators had mixed success when requesting information from foreign authorities using the procedures set out in the Hague Convention. For example, in June 1992, when IRS officials were investigating an insider trading case, they used the procedures of the Hague Convention to request testimony from a witness located in France.⁵ The French Ministry of Justice granted IRS's request in August 1992. However, the witness was able to delay testifying by (1) not appearing at the hearing scheduled in January 1994, (2) filing a writ protecting the evidence-gathering procedure in March 1994, and (3) filing a request in January 1995 for an administrative court to review the Ministry

²The Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, Oct. 24, 1958, T.I.A.S. No. 8400 (also known as the Convention on the Taking of Evidence Abroad).

³It is important to note that an individual may have other U.S. assets or income subject to seizure by IRS. In such cases, it may be more appropriate to attempt to obtain evidence from the individual through an independent proceeding to compel that U.S. assets under the use of the Hague Convention to request information for collection under an administrative case if there is not a pending judicial proceeding. However, such actions either to provide information requested under the Hague Convention or the authorities requesting the information have not been tested.

⁴See Federal Rule of Civil Procedure 28(b)(2), which specifies that deposition in the U.S. federal courts can be taken in a foreign country if required by a federal court.

⁵Michael R. Shover and Joseph D. Shaw, "Transnational in: International Securities Law Enforcement and Regulation," report submitted to securities regulatory coalition (Los Angeles, December 19, 1993).

of Justice's earlier decision. In December 1990, the administrative court confirmed the court's right to obtain the evidence, but by that time, the case was very close to settling the case, and the witness in France never testified.

Even when U.S. regulators obtain the information they need, the process for obtaining the information under the Hague Convention may take a substantial amount of time and resources. For example, in the same case described earlier, the officials requested information from witnesses located in the United Kingdom. However, the witnesses argued that if they testified, they would violate the Luxembourg bank secrecy laws because at the time the suspicious trading took place, they were employees of a London-based Luxembourg bank. After 8 months, the British court ruled in favor of the request, and the officials finally obtained the information they requested.

Because of the problems associated with trying to force foreign entities or individuals to provide information, U.S. regulatory authorities began a dialogue with their foreign counterparts to try to improve information sharing. Since the mid-1990s, U.S. regulators have focused on developing cooperative relationships with their foreign counterparts.

Cooperative Arrangements Have Improved Information Sharing

Since the mid-1990s, U.S. regulators have focused their efforts on establishing cooperative relationships with foreign authorities. This focus on international cooperation has helped to improve the ability of U.S. regulatory officials to obtain foreign-based information, both informally and through formal information-sharing agreements negotiated between U.S. and foreign officials. Although U.S. and foreign regulatory officials frequently share information informally, they have also negotiated 79 formal information-sharing agreements since January 1991. (See tables L1, L2, and L3 in app. L.) None of these agreements establishes procedures for sharing sensitive information that cannot be shared informally. Whether handled informally or formally, however, U.S. regulators believe that successful information sharing can be enhanced by agreed working relationships and a sense of trust between regulatory counterparts.

Officials Often Share Information Informally

U.S. regulatory officials informally share substantial amounts of information with their foreign counterparts, even when a formal information-sharing agreement exists between regulators. For example, U.S. regulators often rely on informal channels of communication to obtain foreign-based information that is not considered confidential. In

addition, they may, in some cases, be able to obtain confidential information informally, especially when the information is needed for background purposes only. U.S. officials also may informally provide their foreign counterparts with U.S.-based information even in the absence of a formal information-sharing agreement.

According to both U.S. and foreign officials, successful informal information sharing depends on well-developed working relationships between regulatory counterparts. Where good working relationships exist, informal telephone contacts or letters between regulatory counterparts can be sufficient to exchange needed information quickly. However, as discussed earlier, the laws of a country may impede sharing information informally. In those cases, a more formal information-sharing method is needed.

Formal Agreements Facilitate Information Sharing

While formal information-sharing agreements between regulatory officials generally only confer an intent to cooperate, these agreements can help facilitate the information sharing process, particularly when officials need confidential foreign-based information. Both U.S. and foreign officials tell us that formal agreements provide a predictable method for sharing confidential information. Generally, these agreements contain specific provisions as to when requests for confidential information can be made and how the information may be used. Moreover, formal agreements help to eliminate continuity problems due to staff changes because, when formal agreements exist, cooperative relationships between regulatory authorities are not as dependent on the support of any one individual regulatory official.

U.S. and foreign regulators said that they are concerned about preserving the confidentiality of any sensitive information they share with their foreign counterparts. Therefore, they often include provisions in formal information-sharing agreements regarding the possible uses of the information shared and the extent to which it must be kept confidential. For example, most of the information sharing agreements contain provisions that limit the use of information shared with foreign authorities investigating and prosecuting suspected violations of the respondent's securities laws. SEC may require that foreign regulators notify it if the shared information is to be used in a manner other than that specified in the information sharing agreement. Some exchange agreements also provide conditions for the uses for which the information can be put—such as, that the information only be used for regulatory purposes. These

conditions help satisfy the interests of both U.S. and foreign officials about preserving the confidentiality of information shared with another regulatory authority.

Because information-sharing agreements often contain confidentiality conditions and restrictions on the use of information obtained from foreign officials, they also can help preserve the bank secrecy and banking laws of foreign countries. Some foreign officials told us that to do so, agreements must specify the uses and confidentiality requirements of information shared. For example, in France, one is exempt from France's banking laws after receiving assurances from foreign regulators that the confidentiality of the information will be protected.¹⁰ When (not) provide information under the information-sharing agreement with us, these assurances are given.¹¹

Information-sharing agreements may also limit the liability of the parties sharing information. Some foreign regulatory officials said formal agreements can justify the sharing of confidential information and protect the reputation from complaints by affected parties within its country. For example, an official at the Texas Securities and Exchange Commission said that an information-sharing agreement would reduce the vulnerability of his agency to domestic objections when sharing nonpublic information.

Formal Agreements Are Being Used More Frequently

The focus of U.S. regulatory officials on developing international cooperation also has led to the development of formal bilateral information-sharing agreements with their foreign counterparts. Most of these agreements are signed statements of mutual intent to provide information and assistance needed to enhance supervision or enforce the respective securities and futures laws and associated regulations of each signatory. Although these agreements generally do not establish legally binding obligations between regulatory counterparts, the agreements do, in most cases,

- document the intent of each party to cooperate in sharing information,
- describe procedures by which nonpublic information will be shared and processed, and
- describe the uses to which certain types of information may be put.

¹⁰ Although the public agreements France has with other countries describing how to share information, French securities and futures laws remain unclear.

These bilateral information sharing agreements are usually called *compacts*. Regulatory officials also refer to other information sharing agreements by names such as *administrative agreements* or *commitments*. Information-sharing agreements take different forms in order to maximize cooperation depending on what is necessary under the laws of the respective signatory country. Although some are statements of intent, administrative agreements are generally binding under international law.¹¹ Commitments are less-compulsive than some or administrative agreements and are generally viewed as (other agreements and/or some or administrative agreement) may be negotiated.

In the past 5 years, U.S. regulatory officials have negotiated various new information-sharing agreements. Since January 1994, we have negotiated 14 some or administrative agreements and 7 commitments or other similar agreements. To date, five bilateral or administrative agreements with the securities authorities of Argentina, Brazil, Canada (provinces of Ontario, Quebec, and British Columbia), France, Japan, Luxembourg, Mexico, the Netherlands, Norway, and the United Kingdom.¹² We also have commitments or other similar agreements with the authorities of Costa Rica, France, Hungary, Indonesia, Italy, and Sweden.¹³ Since September 1998, CFTC has negotiated six some or administrative agreements. These agreements are with Brazil, Canada (provinces of Ontario and Quebec), France, and the United Kingdom.¹⁴ Since March 1999, we have entered into arrangements from federal and state regulators in Australia, Canada, Singapore, and the United Kingdom to exchange information on compliance programs. U.S. now have almost 40 state and other information sharing agreements with their foreign counterparts.

Most of the information-sharing agreements countries have negotiated are bilateral, rather than multilateral. U.S. and foreign regulators hold on that negotiating multilateral information sharing agreements is not yet feasible because the securities and futures laws and regulations and the legal systems between countries currently differ too much to make it possible

¹¹Article 1 of the French Official is that although the administrative agreement regarding with Japan is non-political obligation or agreement, the intent is administrative binding under international law.

¹²The agreement with the Netherlands is not effective to July 1999.

¹³None commitment more than one agreement with the United States for agreement.

¹⁴The administrative agreement with France with regulatory officials and some agreement currently in CFTC multilateral regulatory are among the regulatory officials of the United Kingdom. CFTC cannot to fully implement and CFTC's commitment's regulatory power.

to achieve substantive regulatory agreements. However, information-sharing agreements between various countries have become more similar over time.

Agreements Cover Enforcement, Compliance, and Other Concerns

The initial focus of information-sharing was on enforcement matters. Agreements were negotiated based on the experience of companies attempting to get information to pursue insider trading cases. The first example of an enforcement agreement is the 1992 act between the United States and Switzerland that provided access to Swiss bank trading records. Similarly, the 1994 act signed with the U.K.'s Department of Trade and Industry and Japan's Ministry of Finance were targeted toward enforcement issues.

In recent years international agreements have been developed to cover additional market regulation and oversight purposes. For example, in order to prevent firms that operate in two countries with similar regulatory systems from having to meet the regulatory requirements of both countries, recent agreements permit the home country to enforce compliance with domestic insider rules. In agreements of this type, the foreign regulatory organizations agree, among other things, to provide appropriate financial information to U.S. regulators on an as-needed basis.

For example, the CFTC and some U.S. state are parties to financial information-sharing acts with the Securities and Investments Board (sic) and now in the United Kingdom. These agreements allow for the waiver of U.S. capital adequacy requirements for U.S. securities and allow firms doing business from branches in the United Kingdom. Under the financial information-sharing act, U.S. regulators will supply certain information to their U.K. counterparts regarding the financial condition of U.S. firms on a periodic basis or upon request. Similarly, another agreement with France and Canada by which the CFTC enters its capital rules for certain firms headquartered in those jurisdictions but doing business in the United States.

Another example of an international information-sharing arrangement is when the SEC grants exemptions for foreign securities firms from the Regulation SHO-4. This is an anti-manipulation rule that prohibits persons who are engaging in a distribution of securities from bidding for or purchasing—or inducing others to bid for or purchase—the securities, until they have completed their participation in the distribution. The purpose of the restriction is to prevent an underwriter from artificially

Influencing the market price of securities is its distribution. SEC has granted an exemption from Regulation 10b-1 to certain members of the London Stock Exchange to allow them to buy and sell securities. As a condition of the exemption, the firms must follow certain procedures to prevent their transactions from influencing market prices and agree to provide information in one-on-one meetings with SEC. SEC has granted similar exemptions to firms based on other examples for the distribution of particular classes of securities.

SEC Regulation 10 permits firms located outside the United States that solicit and accept orders from U.S. customers for foreign futures and options transactions to seek an exemption from SEC rules. This exemption is granted if SEC judges that the firms are subject to a generally comparable regulatory scheme in the jurisdiction in which they are located and if the firms agree to furnish registration, trading, and financial information to SEC on an as-needed basis. Firms in Australia, Canada, France, Singapore, and the United Kingdom have petitioned for and received such exemptions. SEC's deal with the Financial Markets in Europe to this compliance and surveillance information sharing provide the basis for each jurisdiction to recognize the other jurisdiction's products. This recognition allows the products to be offered to each country's citizens and for firms of each country's jurisdictions to avoid duplicate registration requirements. The agreement also addresses information sharing necessary for monitoring cross-border screen-based trading systems.

SEC officials also have discussed different agreements with regulatory and exchange officials in emerging markets, such as Hungary, Indonesia, and Mexico. Among other things, these agreements provide for technical support and advice in such as the development, administration, and operation of securities markets in these countries.

Agreements Between SECs Concern Sharing Market Surveillance Information

Officials of U.S. and foreign now have negotiated and implemented formal agreements for sharing market-surveillance information. These agreements are used by both U.S. and foreign law officials to share trading information that will assist them in detecting and preventing fraudulent or abusive practices. These agreements confirm the responsibilities of each party to share trading information from electronic linkages between exchanges of related financial instruments. The agreements cover derivatives products, such as index options and warrants, and the sharing of trading information between markets for derivatives instruments and

being underlying securities.¹⁰ Some of these agreements apply to specific products; others apply to all exchange products. Table 1.1 in appendix 1 compares the agreements.

SEC and CSEX encourage issuers to enter into information-sharing agreements, too, in fulfilling its functions under the Securities Exchange Act, reviews and comments on the non-disclosure agreements negotiated by issuers with regard to derivatives.¹¹ SEC requires that listed information-sharing agreements be in place between relevant issuers to ensure that products are consistent with fair and orderly markets and act in the public interest. For example, SEC officials told us that there must be an information-sharing agreement between issuers before they approve a new derivative product for trading, and have obligations under the Commodity Exchange Act to ensure that, among other things, contracts are not readily susceptible to manipulation or contrary to the public interest. Accordingly, as appropriate, SEC requires that information-sharing arrangements are in place between issuers.¹²

Regulators Have Improved Information-Sharing Agreements

Over the past few years, regulators have not only focused on supervising new information-sharing agreements but have taken steps to provide additional assistance under existing or revised agreements. Generally, the more recent agreements are more comprehensive than earlier ones. For example, SEC signed a comprehensive one in January 1998 with securities regulators in the Canadian provinces of Ontario, Quebec, and British Columbia. The new version specifies procedures for cooperation not found in SEC's earlier agreements with other countries. Because it is so comprehensive, SEC officials consider the SEC-Canadian one to be a "model agreement" that can be used as a basis of reference when negotiating other ones. This SEC defines when assistance will be provided, such as in investigations or cases related to (1) insider trading, (2) fraudulent practices in connection with the purchase or sale of securities, (3) disclosures, or (4) the qualifications of those engaged in the securities business. This SEC also identifies the types of assistance that will be provided, such as requesting information in official agency files, taking the testimony of persons, and obtaining documents from persons.

¹⁰Under existing law, SEC's obligation also has a private redressment feature: investors are able to sue private companies that violate the law or SEC's rules because payment to SEC is subject to the discretion of the issuer for determination of whether a private redressment order is warranted.

¹¹This section 10(b) of the Securities Exchange Act of 1934.

¹²This section 6(c) and 6 of the Commodity Exchange Act.

A key feature of the new Canadian act is the provision that each party will use its subpoena power, if necessary, to obtain information on behalf of the other. However, at the time this act was signed, neither had nor Ontario or British Columbia regulatory officials had the legal authority to conduct investigations on behalf of foreign regulatory officials if there was an suspected violation of their own country's laws. Therefore, we and these potential authorities exchanged letters at the time they signed the act in which they each agreed to seek such legislative authority and received this authority in November 1999 when the International Trading and Securities Fraud Enforcement Act became law. British Columbia regulatory officials also received this authority in 1999, we officials told us that although regulators in Canada (except) their authority in providing this power, the Ontario Securities Commission is seeking legislation that would clarify and simplify its ability to conduct an investigation on behalf of a foreign regulatory authority.

As another example of improvements to the act process, we and we recently signed a new, more comprehensive act with the U.S. Department of Trade and Industry and on that requires an earlier act signed in September 1999. The new act, signed in September 1999, expands the information-sharing possibilities between U.S. and U.K. regulators. For example, it provides a framework for each regulator to use the power available to it to compel the production of information in response to a request from the overseas counterpart subject to its own country's laws and national policy.²⁰ This act establishes a means for the parties to provide assistance even where the subject matter of the request does not constitute a violation of the laws, regulations, or requirements of the requested authority. The new act allows for information obtained under it to be used for future agreements proposed without prior consent. We officials said that the new act, like the Canadian act, covers information gathering and sharing for almost every purpose relevant to us.

²⁰ See, e.g., 15 U.S.C. 6001 (1996) and 15 U.S.C. 6002 (1996) (providing for the production of information from foreign companies).

International Organizations Are Working to Improve Information Sharing

In addition to U.S. bilateral information-sharing efforts, international organizations, such as OECD, IMF, and others, have helped to improve cross-border information sharing. These organizations serve as forums in which regulators can discuss their information-sharing needs and their countries' dispute/legal and regulatory systems. International organizations also help promote information-sharing activities by preparing guidelines on various regulatory issues. U.S. regulators have assumed dual roles in these organizations, and are, in particular, less hesitant through these organizations and directly with its foreign counterparts to promote some self-regulatory changes to help improve information sharing.

OECD Has Established an Information-Sharing Working Group

OECD, established in 1975, addresses regulatory issues raised by the internationalization of the world's securities markets and facilitates efforts to coordinate international securities regulation. OECD's members are regulators representing the securities and futures markets of about 40 countries. Associate members include several of the North American Securities Administrators Association (NASAA) affiliate members that are representatives primarily from exchanges. Signatories, such as securities firms, may only participate in OECD's annual meeting. In 1999, OECD adopted a resolution, proposed by the U.S., calling for its member organizations to provide reciprocal assistance in obtaining information on market oversight and the prevention of fraud. In 1999, OECD adopted another resolution calling for its members to (1) consider negotiating information-sharing agreements that will allow them to provide information to foreign regulators, (2) provide information to foreign regulators even if the matter under investigation does not violate their own country's laws, and (3) seek legislative changes needed to negotiate agreements and obtain information for foreign authorities.

OECD's annual meetings, consisting of workshops and panel discussions, enable members to explore regulatory issues concerning securities markets and promote the development of cooperative relationships. According to U.S. and foreign regulatory officials, attending such meetings helps regulators to identify features of their own country's legal or regulatory system that could improve international information sharing.¹ These regulators use these work changes to domestic laws or regulations that will improve their information-sharing capabilities.

¹See *Regulation of Securities, Derivatives and Futures: International and Domestic Securities Regulation* (Chicago, Ill.: American Bar Association, 1999) (Chicago Bar Book).

toxic has established a Technical Committee, comprised of representatives of the largest markets, that examines significant regulatory issues affecting countries with developed securities markets. One of the committee's working parties has initiated its efforts in studying issues related to information-sharing between federal or central regulatory authorities. This working party recently issued two reports concerning information-sharing with: One of the reports, based largely on the experience of U.S. regulators, identified the problems associated with the development and implementation of such work.¹ It examined the identification of a counterpart, the scope of agreements, the uses of information and confidentiality, operational concerns, overlapping jurisdiction and double jeopardy, the impact of work on other methods of obtaining information, denial of assistance, and remediation and settlement of disputes. The other working party report identified 10 principles that securities regulators should consider when developing bilateral information-sharing work with foreign counterparts.² These principles are designed to provide a blueprint for negotiating and implementing work. IOSCO recommends that work cover at least a range of matters as possible, including the treatment of subject matter, confidentiality, procedures for making and executing requests, legal rights and privileges of persons in the country receiving the request, transportation problems, rights to refuse requests, types of assistance available, uses of information, execution of requests by responding authorities, and cost sharing.

Some foreign regulators, particularly those in Pacific Rim countries, said on their recent position and activities on information sharing have been instrumental in their obtaining greater authority to share information with foreign regulators. For example, officials of the Hong Kong Securities and Futures Commission said that work's needs provided them with leverage in generating legislative support when they sought the authority to share information with foreign authorities. Similarly, Japanese Ministry of Finance officials said that IOSCO's third resolution calling for cooperation among national regulators provided the impetus for the ministry to obtain the legal authority to conduct investigations on behalf of foreign representatives.

¹See *Technical Committee of IOSCO: Issues, Recommendations and Implementation: Memorandum of Understanding*, Working Party No. 4, Technical Committee, IOSCO, Montreal, Nov. 1991.

²See *Technical Committee of IOSCO: Understanding*, Working Party No. 4, Technical Committee, IOSCO, Montreal, Nov. 1991.

FIBV Is Working to Improve Cooperation Among Exchanges

FIBV facilitates the exchange of information among its members, which is composed of about 20 individual securities exchanges and associations of exchanges from around the world. FIBV's goal is to promote closer collaboration among securities exchanges and associations of securities exchanges in the interest of investors and investors in securities and to cooperate with national and international organizations. It also seeks to promote the development of larger and more liquid capital markets and promote maximum levels of self-regulation of activities in both national and international arenas.

FIBV supports the negotiation of bilateral information sharing agreements between exchanges and has undertaken efforts to encourage regulators to harmonize securities regulations that affect international information sharing. For example, in 1993, FIBV adopted a resolution calling for exchanges to notify each other when contemplating any major market actions, such as suspending trading. In addition, Japanese and Hong Kong stock exchange officials told us that FIBV pronouncements regarding the sharing of confidential information and other data between members had encouraged their respective exchanges to change their rules accordingly. For example, officials of the Stock Exchange of Hong Kong credited FIBV with providing their exchange with the impetus to make its rules regarding the sharing of confidential information with foreign exchanges less restrictive.

In April 2001, FIBV created a task force to identify and analyze existing bilateral information sharing arrangements among FIBV members. The task force identified whose purpose was to catalogue existing agreements, identify agreement coverage, and focus on problems that frequently arise in exchanging surveillance information. The study sought to encourage regulators to expand the flow of surveillance information among exchanges and arrive at a standardization of privately negotiated agreements. Study results include that most FIBV member exchanges have significant market surveillance and investigative capabilities and are able to produce comprehensive reconstructions of trading in their markets. A substantial majority of FIBV member exchanges may share pre- and post-trade information with respect to the time, size, and price of trades, trades, and the identity of the executing firms, with some exclude their name identities. A majority of FIBV members are subject to legal restrictions on their ability to identify the sources of particular trades to self-regulators outside their home jurisdictions. Due to the encouragement

of SEC and CFTC, U.S. exchanges had a high degree of participation in information-sharing agreements.⁴

The U.S.-Based ISG **Also Promotes** **International** **Cooperation**

ISI is made up of the heads of market surveillance divisions of U.S. and major foreign stock-exchanging individual stock, options, and futures exchanges. Its members request to each other's requests for surveillance information. Its members also share confidential data and data on large options positions on a routine basis. ISI started in 1949 as an organization made up of only U.S. members. In 1992, it began to include foreign affiliate members. Currently, the eight U.S. stock and options exchanges and the National Association of Securities Dealers are full members of ISI, and four U.S. futures exchanges and six foreign exchanges are affiliate members.⁵ ISI meets on a regular basis.

ISI has attempted to enhance the sharing of surveillance-type information among the various stock and options markets and to coordinate investigations of suspicious trading activities that involve several stock markets. One of ISI's current main objectives is to increase its foreign membership. However, in order to become an affiliate member, foreign exchanges must have surveillance capabilities similar to those of U.S. exchanges and be able to overcome legal impediments to information sharing. In one case, an exchange applying for affiliate membership was asked by ISI to have blocking statutes modified by its national legislative body as a condition of membership. Another current initiative is to develop model surveillance-sharing agreements for use by self-regulators. Representatives of SEC and CFTC participate in all major ISI meetings. Representatives of ISI's full and PFI members also attend meetings.

⁴John Reed, Graham Reed, and Bill Fichtelbaum, "Degree of Information-Sharing Agreements Among PFI Exchanges," paper delivered at conference, Washington, March 1991.

⁵The U.S. members of ISI include the American Stock Exchanges, Tokyo Stock Exchange, Midwest Stock Exchange, New York Stock Exchange, National Association of Securities Dealers, Pacific Stock Exchange, Chicago Board Options Exchange, International Stock Exchange and Philadelphia Stock Exchange. Currently, the foreign affiliate exchanges include the Montreal Exchange, Osaka First Stock Exchange, Singapore Stock Exchange, Toronto Stock Exchange, Vancouver Stock Exchange, the Frankfurt Stock Exchange, and the London Stock Exchange. ISI's affiliates are the Chicago Board of Trade, Kansas City Board of Trade, and the New York Futures Exchange. Although members of ISI have full participation in information sharing, the following do not share the same vote as those affecting only U.S. securities markets:

Officials From Major Markets Actively Participate in These Organizations

Regulatory and exchange officials from many of the world's securities and futures markets actively participate in these international organizations to ensure to improve regulatory cooperation. Most exchanges from the countries we talked with were represented in our study; all of these countries were represented by their respective regulatory organizations to some. In addition, regulators from 1 of the 12 countries in our study were directly involved in the initial working party that developed the 28 principles for consideration by regulating information sharing work.

U.S. regulators told us that they have assumed leadership in these international organizations in the belief that such organizations and associated activities can enhance the level of cooperation among securities and futures regulators. IOS has been particularly active in promoting information sharing through IOS's role in the study of cross Technical Committee until October 1998, and the New York Stock Exchange will be the chair of IOS until December 1999. According to an IOS official, the success of the chairs by U.S. regulators creates an ideal opportunity to further the cause of international information sharing. IOS's European officials have expressed the hope that IOS will play a greater role in international securities regulation under IOS's chairmanship of IOS's Technical Committee.

U.S. and Foreign Statutory Changes Also Have Advanced Information Sharing

IOS has also assumed a lead role in helping to improve information sharing by working directly to help national and working with foreign officials to seek similar changes in their laws.⁴ IOS officials worked directly with their foreign counterparts and through international organizations to promote these statutory changes. As a result, the evidence-gathering and information-sharing authorities of many U.S. and foreign regulatory officials have become broader and more similar worldwide. This, in turn, has resulted in improved information sharing.

Country-By-Country Initiatives Facilitate Information Sharing

In recent years, both U.S. and foreign regulators have enacted additional statutory powers that enable them to gather and share information more fully with foreign counterparts. For example, in 1993, we obtained the legal authority to conduct investigations using its subpoena authority—on behalf of a foreign counterpart—to gather information from persons and institutions in the United States who may have information relevant to

⁴IOS's initial focus centered international information authority in January 1998 as part of its mobilization process.

suspected violations of the foreign country's securities laws.⁷ In determining whether to conduct such investigations, the SEC must consider whether the foreign authority has agreed to provide nonpersonal assistance to the SEC and whether compliance with the request will jeopardize U.S. public interest. Also, in November 1999, the SEC obtained a legal exemption to certain provisions of the U.S. Freedom of Information Act (FOIA), allowing it to protect information received from a foreign counterpart from being released.⁸ Under the terms of its exemption, the SEC need not be compelled under FOIA to disclose records obtained from a foreign authority if the public disclosure of such records would be contrary to the law applicable to the foreign authority.⁹

Similarly, following changes to the legislative authority, securities and futures regulatory authorities abroad have received additional statutory powers, which enable them to more fully gather and share information. For example, the securities and futures regulatory authorities of Japan, France, the United Kingdom, and the Canadian province of British Columbia recently obtained the explicit authority to conduct investigations using their compulsory powers at the request of foreign counterparts. The Dutch Central Bank received information-sharing powers in 1999.¹⁰ Legislation proposed in 1999 would grant the Securities Board of the Netherlands the legal authority to share information directly to its personnel with foreign regulators. It would also grant the Board the authority to conduct investigations on behalf of a foreign regulator for instances in which the Netherlands has entered into an information-sharing agreement. France's public regulator also obtained the authority to communicate information to officials of foreign states, subject to reciprocity and guarantees of secrecy. These additional powers effectively enable one to overcome the French blocking statute in order to exchange information with foreign regulators. In Luxembourg, the Commission des Finances has obtained legislative authority to share information with foreign regulators who have the ability to protect the information's confidentiality and who accord the Luxembourg national rights to request information.

⁷This authority was confirmed by the Insider Trading and Securities Fraud Enforcement Act (ITSEFA).

⁸FOIA (5 U.S.C. 552) requires federal agencies to make available to the public any agency document that is not specifically exempted from disclosure under the act.

⁹SEC was still be compelled to disclose records to Congress and the courts.

¹⁰The Netherlands securities and futures markets are regulated by the Dutch Central Bank and the Securities Board of the Netherlands.

Finally, the securities and futures regulators have improved their ability to share information with foreign regulators through legislative changes. For example, in 1999, the Japanese Ministry of Finance received legislative authority to compel the production of information on behalf of foreign regulators. The Ministry can now share and share confidential information with foreign regulators even in cases where there is no evidence that Japanese law has been broken or would have been broken had the same conduct occurred in Japan. According to a Ministry official, Japan adopted this legislation in response to SEC's recommendations for changes in regulatory authority. Similar legislation, the Mutual Assistance in Business Regulation Act, was introduced in Australia in early 1999. Under this act, the Australian Securities Commission will, with mutual consent, be able to accept the giving of evidence, the production of documents, and the production of documents to assist foreign business regulators. This act will enable the Australian Securities Commission to regulate more with foreign regulators and will assist in defining the parameters of these agreements.

In Hong Kong, the Securities and Futures Commission was granted the authority to share information with foreign regulators in 1994. Before this development, the Commission was prohibited from providing confidential information to foreign regulators because such sharing was not specifically designed as one of its functions. In addition, the Stock Exchange of Hong Kong recently changed its rules to allow confidential information sharing under certain conditions. The exchange will provide confidential information about a member, without the member's consent, if the recipient (1) requests similar business or the exchange, (2) has similar security provisions, and (3) will not disclose the information to a third party.

European Community Initiatives Promote Information Sharing

The European Community (EC) is promoting both regulatory harmonization and information sharing among its 12 member countries.¹⁰ To achieve its goal of economic integration, the EC has issued various directives that member countries must incorporate into their respective domestic laws. For example, a 1990 EC directive on insider trading requires member countries that did not prohibit insider trading to pass laws making it illegal, member countries that already had insider trading laws are required to amend these laws so that they are consistent with the minimum standards set forth by the directive. The directive also requires

¹⁰The 12 EC member countries are Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, and the United Kingdom.

that member countries: (1) share information with one another regarding insider investigations; (2) protect the confidentiality of shared information; and (3) designate competent administrative organizations invested with necessary supervisory and investigatory powers to carry out the provisions of the directive, including the power to obtain information on behalf of another member country. The directive leaves the imposition of sanctions to member countries. The directive further allows for the establishment of information-sharing arrangements with nonmember countries.

The insider trading directive can help reduce impediments and improve information-sharing prospects in several ways. For instance, as noted, it contains provisions explicitly requiring information sharing.¹⁷ Also, by requiring the adoption of insider trading laws in member countries that regulate acts to be criminal in both countries, the directive may make it easier for U.S. and foreign regulators to obtain information from those member countries for insider trading investigations.

The insider trading directive also requires each member country to designate a competent authority to implement the directive's provisions. This requirement has prompted, in part, the establishment of a new national regulatory authority in Luxembourg responsible for supervising securities and futures markets.¹⁸ The creation of this regulatory authority provides U.S. and foreign regulators with a regulatory counterpart with whom to share information. It also may provide U.S. regulators with an appropriate foreign counterpart with whom to negotiate formal information-sharing agreements. For example, officials of Luxembourg's Commission de Régulation des Marchés, a national securities regulator established in January 1991, indicated that they may negotiate an information-sharing unit with us in the future.

The EC and the European Free Trade Association, a trading bloc consisting of seven European countries,¹⁹ have recently signed an agreement to integrate the economies of their respective countries as a single entity, known as the European Economic Area. In the agreement, signed on May 2, 1991, the seven European Free Trade Association countries are required to adopt the body of EC legislation, including securities-related

¹⁷According to an EC official, if EC member states designate insider information sharing between competent authorities, those authorities then provide for the coordinated treatment of shared information.

¹⁸Luxembourg Securities Markets Act of February 1991.

¹⁹The European Free Trade Association consists of seven, namely Iceland, Norway, Sweden, and Switzerland. Switzerland and Austria have similar status regarding EC.

directives such as the one on insider trading. Thus, the effect of the directives in promoting more homogeneous regulatory regulations would be extended in these countries.

In September 1994, the Commission of the European Communities and ten signed a joint statement on establishing improved cooperation. In this statement, the Commission of the European Communities and (a) agreed to work together to facilitate the exchange of information and the provision of mutual assistance between ten and the relevant national authorities of the EC.

Impediments to Information Sharing Still Exist

Despite progress in their efforts to improve information sharing, U.S. and foreign securities and futures regulators will cannot obtain all the information necessary to fulfill their enforcement, compliance, and surveillance objectives. Legal and regulatory impediments to information sharing, including the blocking and privacy laws, have become countries, and differing legal and regulatory arrangements, continue to frustrate the attempts of U.S. and foreign regulators to exchange information to ensure market integrity.

Unstudied Information Needs Can Adversely Affect Regulatory Oversight

SEC and CFTC officials told us they are generally satisfied with the working relationships and information-sharing arrangements they have established. Similarly, many officials of the foreign regulatory organizations we contacted generally expressed satisfaction with the current arrangements and responsiveness of SEC and CFTC to their requests for assistance. Nevertheless, the inability of U.S. and foreign regulators to obtain all the information they need can adversely affect their ability to carry out their legislative mandate to protect investors and ensure efficient, fair, and orderly markets. For example, if federal regulators cannot obtain customer identity, bank account, or other information from a foreign country for an insider trading investigation, they may not be able to determine whether they should bring a case despite strong suspicions based on other evidence.

In one ongoing insider trading case involving suspicious trading just before a foreign firm took over a U.S. firm, U.S. regulators spent considerable time and resources trying to learn the identities of brokerage account holders in the British West Indies, Luxembourg, and Switzerland. However, in part because of foreign bank secrecy laws and an ongoing criminal investigation abroad, U.S. regulators told us that they have only obtained some of the information they needed even though they have made over 20 different requests to foreign authorities. The regulators are not yet able to obtain enough evidence to determine whether U.S. laws were violated.

Impediments to Information Sharing Still Exist

Differences in the laws and regulatory structures of different countries as well as other factors still impede efforts to improve international information sharing. The major information-sharing impediments we identified include:

- Blocking and privacy laws,

- bank secrecy laws,
- lack of regulatory authority to obtain information requested,
- lack of a national regulator,
- differing technical and resources capabilities,
- varying criminal proceedings,
- an inability to ensure the confidentiality of shared information, and
- dual-credibility requirements.

Blocking and Confidentiality Laws Have Not Been Overcome in All Countries

Information sharing agreements can, in some cases, help overcome blocking and confidentiality laws. The laws of some countries, such as France, allow regulators to share information as long as they can assure that the information will remain confidential once provided to foreign counterparts. An information-sharing agreement can help provide these assurances. However, the United States does not have information-sharing agreements with all countries, and in some countries, even if such an agreement exists, laws may not permit sharing certain confidential information.

Among the countries we studied, Australia, Japan, Hong Kong, the Netherlands, and Singapore¹² have blocking or confidentiality laws that could restrict the information these countries may share with U.S. or other regulators.¹³ In most cases, regulators in these countries are working to overcome blocking or confidentiality laws. Regulators in Australia, Japan, and Singapore and their laws have not posed a barrier to sharing information with foreign regulators. For example, Australian blocking laws have been necessary for the purposes of sharing regulatory information with (FF) as part of the Sydney Futures Exchange's discussions with CFTC to obtain approval of its linkage with the Commodity Exchange Inc., and also with respect to the application for exemption for the Exchange's members under Regulation 36 of the U.S. Commodity Exchange Act; the Australian Attorney General provided written assurances that Australian blocking legislation will not be used to impede the sharing of regulatory information. Also, regulators in the Netherlands told us that the Dutch Privacy Act partially limited their ability to provide certain types of information to foreign regulators, unless

¹²Singapore officials told us that although there is no explicit blocking or confidentiality law covering financial institutions, certain state bodies sharing information with them is restricted to certain information only with the approval of the Monetary Authority of Singapore. In the past, the Authority has provided information on securities and finance matters to requesting authorities.

¹³Other countries, such as Japan, have sharing agreements with Japan and the Netherlands.

individuals consent or waive their rights.⁴ However, regulators in the Netherlands also said new legal developments should rectify this problem. Confidentiality laws have also inhibited the ability of U.S. regulators to obtain information located in Hong Kong.

In addition, an exemption from the disclosure laws of a country may not apply in all regulatory and exchange affairs. For example, in France, where public regulators have a statutory exemption to the French blocking law, French securities and futures exchanges do not have an exemption. As a result, a French exchange cannot directly share risk-management information, such as the financial exposures of common members, with a foreign exchange. Consequently, the scope of letters among the French *Secrète des Changes Financières*—the executive body for French stock exchanges—and various U.S. securities exchanges is limited to exchanging information on stock prices and aggregate trading volumes. On the other hand, risk-management information can be indirectly shared by exchanges through *com and sec* in accordance with the provisions of their information-sharing agreement. French and U.S. regulatory officials said, however, that because sharing trading and risk-management information in such an indirect manner is less efficient, it is not a satisfactory method to use when such information needs to be shared quickly between exchanges to preclude abusive practices.

Bank Secrecy Laws Inhibit Information-Sharing in Some Countries

Nearly every country we visited, including the United States, recognizes an individual's right to financial privacy. This recognition may take the form of bank secrecy laws, which restrict financial institutions from disclosing financial information to a customer's creditors, or it may take the form of a right implied in a customer contract with a financial institution, which may be enforced in the courts. Securities and futures regulators in some of the countries we visited—such as France and the United Kingdom—have the legal authority to overcome the bank secrecy provisions of their home country in order to share information with foreign regulators. However, regulators in other countries may not be able to provide bank account records, trading records, and the identities of customers to foreign regulators.

⁴ Dutch officials said we had this problem itself have been solved for the time being, in 1999-01.

Bank survey laws may be more problematic in countries where there is universal banking.² Unlike banks in the United States, banks in universal banking countries play a major role in brokering securities and futures transactions on behalf of their customers. Thus, if not on one request, information on bank-initiated transactions in such a country, a bank survey law could prevent that country's regulatory authority from providing the information.³ In such cases, a U.S. regulator's only recourse may be to request that the counterpart regulator or the foreign bank ask the customers involved to waive their protections voluntarily and agree to release needed information.

For example, in Germany, a universal banking country, a contractual obligation prohibits bank officials from providing the names of bank customers to a foreign authority without the consent of the customers. Although this obligation can be overcome by German judicial authorities in domestic criminal investigations, German banking regulators and exchange officials cannot share such information with U.S. regulators. In a recent insider trading case, the sought information from several German banks concerning the identity of customers whose accounts were used to execute suspicious trades in IPO activities. Although these banks agreed to voluntarily cooperate with us and did provide information on certain transactions, they were not able to furnish all the requested information, including the names of the customers behind the transactions.

Similarly, Hong Kong's bank survey provision prevents regulatory officials from providing customer account information to foreign

² In universal banking countries, banks are engaged in every type of banking and financial activity, either directly or through subsidiaries. In some of these countries, the majority of regulatory activities are done within banks. In countries without universal banking and in the United States, bank activities must be participating in equity securities markets, or derivatives.

³ Among the countries we visited, a number (France, Germany, Hong Kong, Luxembourg, the Netherlands, Singapore, Switzerland, Taiwan, and the United Kingdom) are universal banking countries. The United Kingdom requires separate offshore jurisdictions and banking activities. Most of these countries accept for capital and for derivatives, also use a supplementary law.

Although Canada is a universal banking country, securities and future activities are exclusively bank subsidiaries and are thus separate from traditional bank deposit activities. In Canada, there is regulatory autonomy that prohibits bank activities. Although there is information voluntarily supplied, confidentiality considerations regarding exposure of regulators to corporate and confidential information prevent that other countries, in fact, in 2010, cooperation between the bank regulatory authorities is changing. The Mutual Agreement in Financial Institutions Act may enable the Canadian Securities Commission, in some cases, to compel a bank to give evidence or give information in respect of the request.

Bank officials and regulatory staff have the confidentiality rights of information received contractual obligations. On the basis of these activities, bank bank regulatory authorities also therefore based on the Netherlands and the United States that—on temporary request the policy of bank client and their information flow bank.

regulators. This provision expressly prevented Hong Kong authorities from providing us with information on the identity of a bank account, however we received this information for an investigation of possible insider trading involving transactions made from this account.

Some Regulators Lack Authority to Obtain Requested Information

National regulators in several countries we visited lack the authority to obtain some or all of the information that may be requested by U.S. or foreign regulators. National regulators in Australia,¹ Hong Kong, Luxembourg, the Netherlands,² Singapore,³ and the Republic of China lack the legal authority to perform investigations or to compel information on behalf of a foreign regulator.

In the United States, CFTC also lacks the authority to compel information not already in its possession solely on the request of a foreign counterpart and without regard to whether the request involves a violation of U.S. law.⁴ CFTC officials said that making this authority available to CFTC might induce foreign authorities who also do not have the power to investigate violations of U.S. laws, where such actions do not violate their own laws, to seek such authority. The authority would also help avoid the complex and time-consuming jurisdictional and procedural issues that often inevitably arise when investigations cross national boundaries. The availability of such assistance could serve as a deterrent to those who would attempt to elude investigating U.S. law enforcement from a foreign jurisdiction that had agreed to provide assistance to CFTC. According to CFTC, persons subject to such an investigation would be entitled to all the rights currently afforded to persons who are subject to an investigation under the Commodity Exchange Act.

¹ Australia maintains tight control of its financial system in order to ensure that it is not used to circumvent the Australian Securities Commission, which controls access to those information included in foreign registers. The act is comparable to the Securities Order in the U.S. CFTC did a review of the Australian Securities Commission, however, did not request the authority to conduct operational assistance in this context.

² The Dutch Finance Ministry will be in a position to facilitate cooperation within the Dutch Central Bank and the Securities Board in the Netherlands, can only request information on behalf of foreign regulators if it helps Dutch law enforcement during operations in its own territory under the Securities Board in the Netherlands will have control of all information during processing, the data this report is based.

³ Because of the monetary authority of Singapore which has allowed that have an explicit regulator authority does to perform investigations on behalf of a foreign regulator. The Monetary Board must authorize them to provide such assistance.

⁴ According to CFTC officials, while subject of a foreign request may raise the possibility and risk of some assistance from within their CFTC, any attempt to obligate to assist to elude the regulator. Information gathered during an CFTC investigation may then be shared with the foreign request.

In one case, this lack of authority prevented inquiries regarding to several requests from Japanese authorities who were seeking information on the trading activities of certain U.S. firms. In addition, CFTO officials told us that, on a number of occasions, German authorities have asked them to gather witnesses, including taking the testimony of futures market professionals. However, CFTO officials said they have not been able to respond to these requests because there was not a possible violation of U.S. law.

Lack of a National Regulator Can Hinder Information Sharing With Some Countries

Two countries we visited—Germany and Switzerland—do not have a national securities and futures regulator, although both jurisdictions are considering establishing a national regulator.⁴⁰ In those countries, U.S. regulators do not have a similar counterpart organization with which they can coordinate and exchange information. As a result, U.S. regulators often are left to obtain information from alternative organizations in those countries such as police authorities or local government officials. For example, in connection with an insider trading case, we obtained from German police officials information such as names and addresses associated with certain phone numbers. In another recent stock fraud case, we requested information from Swiss federal police authorities who in turn referred the matter to national officials, as provided for under the treaty between the United States and Switzerland.⁴¹

Our officials told us that although the regulatory and legal traditions of Germany and Switzerland are similar, we have been able to develop a satisfactory way to obtain information from Switzerland. However, they said they have not been as successful in encouraging German government officials to develop a mechanism to share securities market information. The United States has signed a mutual legal assistance treaty with Switzerland that provides information sharing. The Swiss have designated the Federal Office of Police Matters to act as the central authority for mutual assistance. This office receives our requests and refers them to national authorities. The United States does not have a similar mutual assistance treaty with Germany. Although U.S. regulators often seek information on German securities and futures markets, no coordinated

⁴⁰Germany also has no formal national regulator but provides regulatory oversight through its securities and future markets authorities that are in federal securities market regulator and have no formal securities regulator but work with the Deutsche Wertpapierkammer as subject to the supervision of the Federal Banking Commission. German exchanges are heavily regulated by the Ministry of Economics.

⁴¹Switzerland is designated as international "country."

method for handling information requests, similar to that developed in Switzerland, has been created.

Some alternative organizations may not, however, be reliable or adequate sources of information for U.S. regulators in the long run. For example, CFFI officials told us that a police authority in one Pacific Rim country is willing to share information on a case-by-case basis but is reluctant to enter into a formal information-sharing arrangement with us. The cooperation we receive from police officials in this country is not always as successful as cooperation with the Swiss, our officials said, that some foreign police organizations are reluctant to submit our information requests either because they are not familiar with violations of securities law or with jurisdictional powers or because they may not have the legal authority to submit or share information with a nonaffiliated agency such as us.

The absence of national securities and futures regulation in Germany and Switzerland has also precluded U.S. regulators from negotiating comprehensive agreements with those countries. According to government authorities in the two countries, national regulators empowered to regulate markets and share information with foreign counterparts must first be established in their home country before comprehensive rules or agreements will be negotiated with U.S. regulators.

German officials said the M's insider trading directive may lead to the establishment of a German national regulator for securities and futures markets. In January 1995, the German Federal Minister of Finance presented a plan for an amendment to Germany's capital market legislation. In submitting this plan, the Federal Ministry of Finance said that one important requirement for its implementation must be the creation of an efficient central supervisory authority and laws that prohibit insider trading. The proposed supervisory authority will be responsible for sharing information with corresponding authorities within the EU as well as for sharing information on a worldwide scale consistent with the principle of reciprocity and bank secrecy considerations. Swiss officials said their government is currently considering such legislation that would establish a national regulatory authority to oversee Swiss securities and futures exchanges.

Differing Technical and Resource Capabilities Can Hinder Information Sharing

The differing technical and resource capabilities of regulators can also hinder, or at least delay, information sharing. A lack of familiarity with and knowledge of a country's securities and futures laws, regulations, investigation procedures, priorities, current trading strategies, or other unique features of a country's securities and futures markets can hinder cross-border information sharing. For this and other reasons, every year our broker brings regulators to the leading programs on enforcement and investigation issues in U.S. securities markets. More than 40 foreign representatives attended in 1991.

In addition, U.S. exchange officials told us that foreign exchanges often lack the technical capabilities to collect data similar to that gathered and analyzed by U.S. exchanges, and has not upon emerging markets innovation to allow foreign exchanges to expanding their technical capabilities.

Moreover, differences in resource levels of regulators affect their ability to obtain information in a timely manner. Regulators with limited staffing may not be able to answer all foreign requests for information because of competing domestic and other foreign requested investigatory work. For example, some Canadian regulators told us that it is sometimes a problem for them to respond to the large volume of information requests that come from U.S. regulators because the Canadian regulators have relatively small staffs. However, they said U.S. regulators' efforts to narrow and focus their information requests have helped alleviate the problem to some extent. In addition, CFTC's financial aid with Canadian regulators delegates the routine sharing of information to one in the United States and Canada. This arrangement helped us reduce demands on provincial regulatory staff and to consummate the agreement.

Because of its involvement about establishing the resources of some regulatory counterparts, at the request of a foreign regulatory authority, the staff of CFTC is considering making a proposal to the counterparties on detailing our staff to work temporarily for foreign regulators. our staff would assist the regulators to answer any information requests where such requests create an undue burden on the limited resources of the counterpart.

Ongoing Criminal Proceedings Limit Information-Sharing Possibilities

U.S. regulators have encountered difficulties in obtaining information from other countries when that information was the subject of foreign criminal proceedings. For example, in one case from France involving possible insider trading or stock fraud, we sought information relative to activities that were the subject of criminal proceedings. In both cases, it was not possible for the French prosecutor to provide the information requested once the French proceedings began, nor was unable to obtain the information from French judicial authorities because those authorities did not regard our use as appropriate judicial authority with which to share information. Similarly, in the United States, our staff was unable to obtain information from an ongoing grand jury proceeding that may be needed to answer a foreign information request.

Inability to Export Confidentiality Inhibits Information Flow

The inability of a regulator to protect the confidentiality of shared information may preclude that regulator from obtaining information from a counterpart. According to U.S. and Luxembourg officials, for instance, assurances must be provided that confidential information, once shared with another country's regulator, will be safeguarded in order for actual exchanges among regulators to work effectively.

In the United States, our staff limited ability to secure the confidentiality of information provided to it by foreign regulators.¹⁴ Specifically, our staff was not able to avoid a legislative protection from disclosure under the provisions of FOIA that has been granted to us. Moreover, our inability to prevent disclosure of confidential information received from foreign authorities under quarterly subpoenas.

The terms of some foreign jurisdiction preclude their authorities from entering into information-sharing agreements unless they can be assured that protections of confidentiality similar to those of their home country are available. For example, foreign authorities have expressed concerns about the effect of our use information they supply to U.S. regulators. Because our staff lacks these protections, the French CAC is unable to provide our confidential information. Our lack of authority to sufficiently protect the confidentiality of shared information has prevented the conclusion of the information-sharing agreements with our

¹⁴ In this case, EPIC was unable to establish that such confidential information is in possession, however, not out of scope of confidential data protection and thus it constitutes a shared activity by the United States. For information on the European Banking Act, 71st session of the Council of Ministers, on 2 July 2009, 2009/272/EC, which provides that shared regulatory information should be for administrative purposes.

Dual-Criminality Requirements Limit the Scope of Inquiry

Dual-criminality requirements, or requirements that an act be criminal in both countries, can hamper information-sharing efforts here regulated by limiting the scope of inquiries to those matters that constitute criminal offenses in both countries. For example, regulators in Germany are unable to respond to some foreign information requests unless the suspected violation also constitutes a crime in their country. In Germany, where insider trading is not a crime, government officials say that they are limited in what activities they can offer U.S. regulators investigating possible insider trading activities. A note under the Transatlantic Trade and Investment Partnership allows U.S. securities regulators to use the treaty for investigations of potential insider trading violations as long as the investigation may lead to criminal prosecution.

U.S. Regulators Lack Other Legal Authorities That Could Facilitate Information Sharing

In addition to CFTC's lack of legal authority to obtain information solely on behalf of foreign regulators and fully protect the confidentiality of shared information, one lacks insider information-sharing authority that has been granted to one CFTC does not have the explicit legal authority to provide confidential information to foreign ones who are administering or enforcing rules and regulations as they relate to future markets. For example, according to officials of both CFTC and the United Kingdom, CFTC should have the authority to share information directly with U.K. securities regulators, with few exceptions, the front-line regulators of U.K. financial businesses. These officials said that information about any markets or applicant markets should be able to be passed to the one concerned because it is the one that are responsible for a firm and require the information, an officials told us that they encourage more to have good channels of communication with other regulators.

Bills pending before Congress to reauthorize CFTC include provisions for granting CFTC the authorities discussed earlier. CFTC first requested enhanced legislative authority in January 1999. According to CFTC officials, much of these legal authorities is integral to CFTC's ability to exercise proper regulatory control over U.S. future markets that are becoming increasingly international. In particular, CFTC officials said that their lack of authority to obtain information on behalf of foreign regulators and protect the confidentiality of shared information is preventing them from concluding or is substantially delaying formal information-sharing agreements with foreign counterparts. The finalization of CFTC administrative agreement with one has been delayed nearly 2 years pending CFTC's receipt of these authorities.

Some countries, such as Switzerland and France, have the authority to order a foreign regulator investigating violations of securities or foreign laws by freezing assets located in their countries on behalf of foreign regulators. When regulators are investigating potential foreign securities or foreign violations, there is often a need to freeze assets in the foreign jurisdiction. For example, when two detainees' suspicious trading from a foreign account immediately before or after a significant event, such as a corporate takeover, SEC would like to prevent the traders from withdrawing the proceeds of the trade before it obtains sufficient evidence to determine whether there was a securities violation. U.S. regulators do not have the authority to freeze assets located in the United States at the request of a foreign authority.

Officials from the U.S. Department of Justice said that it may be possible to freeze assets at the request of a foreign country if the United States has a mutual legal assistance treaty with that country. Such treaties generally cover the transmission of assets. Even so, the Justice rely on U.S. law for implementation. Because available U.S. laws do not limit themselves to the objective of freezing assets on behalf of a foreign authority, a U.S. court may not be persuaded to impose a freeze. In the absence of a treaty, freezing assets is even more doubtful. As table 6.1 in appendix 1 indicates, few countries have a mutual legal assistance treaty with the United States. U.S. Department of Justice officials also said that the inability to assist foreign authorities by freezing assets inhibits the responsiveness of foreign authorities to requests from the United States to freeze assets because there is no reciprocity. Because exploring this problem involves consideration of legal and administrative issues beyond the securities and finance scope we considered in our review, we did not pursue it further.

Conclusions and Recommendations

Conclusions

Although our work indicates that cross-border information sharing is sensitive and future efforts to increasing and improving the process of information sharing is continually evolving, our regulations should create open to new approaches. As legal and regulatory structures and requirements become more similar internationally, new information sharing strategies may become possible. These strategies might include comprehensive multilateral agreements between several countries.

The emphasis of U.S. and foreign regulatory officials and international organizations on developing cooperative bilateral relationships has helped, but there are still impediments that hinder information sharing. To the extent that these impediments involve issues, such as industry norms and blocking statutes in other countries, U.S. regulators will have to address them bilaterally and through international organizations, such as OECD and AIA, to overcome them. As international efforts to harmonize the legal and regulatory structures of individual countries take effect, impediments to information sharing may become less formidable.

U.S. securities and futures regulators will need the flexibility to manage changing demands of an international marketplace. The differences between the legislative authorities of the agencies regarding information sharing need to be corrected, insofar as possible. CFTC's current lack of legislative authority similar to that of SEC hinders CFTC's ability to share information. As securities and futures trading increases internationally, information sharing will continue to be an important tool for U.S. regulators to ensure that the U.S. securities and futures markets remain fair and honest.

Recommendations to Congress

We recommend that Congress provide CFTC the same legislative authority that already has to:

- obtain information on behalf of foreign regulators in order to ensure that regulators' requests without regard to whether the request raises possible violations of U.S. laws;
- guarantee more fully the confidentiality of information provided to it by foreign regulators; and
- pass complete information directly to foreign regulators.

Agency Comments and Our Evaluation

CRS and CBO generally agree with this report. CRS says it has made a substantial commitment to fostering meaningful cooperative relationships with overseas regulators around the world, and also says its counterparts have signed some and obtained authorizations that enhance their ability to share information internationally. (See app. II.) CBO says it established enhanced international enforcement authority in January 1990 as part of its reauthorization process and that it is committed to working with Congress to completing the reauthorization bills so that this and other important regulatory issues can be resolved (see app. IV).

U.S. Government and Regulator Cross-Border Agreements

Table 17 SEC, CFTC, and S.R. Government Agreements With Foreign Regulators and Governments

Country	U.S. Organization	Foreign Organization	Date	Description
Argentina	SEC	Comision Nacional de Valores	Dec. 1995	MOU on consultation, technical assistance and mutual understanding the exchange of information.
Canada	CFTC	Australian Securities Commission, Australian Treasury, Reserve Bank, and Sydney Futures Exchange	July and Aug. 1999	Information-sharing agreement for implementing the trading link between Sydney Futures Exchange and Commodity Exchange, Inc.
Canada	CFTC	Australian Securities Commission, Australian Treasury, Reserve Bank, and Sydney Futures Exchange	Aug. 1999 through June 1999	Written agreement to cooperate in information sharing related to requests for data. Prime broker in Australia has sought and succeeded in forcing U.S. regulator to change stance and update legislation if the firm agrees to market trading and financial information to CFTC on an as-needed basis.
Brazil	SEC	Comissao de Valores Mobiliarios	Aug. 1995	Comprehensive MOU to encourage the performance of securities market oversight functions, inspection or examination of members/institutions, and the conduct of investigations, studies, or prosecution.
Brazil	CFTC	Comissao de Valores Mobiliarios	Apr. 1997	Comprehensive MOU involving mutual assistance and exchange of information in enforcement matters. The agreement involves access to confidential information and information gathering on behalf of each other including obtaining documents and taking testimony or statements of witnesses.
Canada—jurisdictions of SEC (Quebec, Ontario and British Columbia)		Ontario Securities Commission, Commission des valeurs mobilières du Québec, and the Ontario Securities Commission	Jan. 1999	Comprehensive MOU for sharing a wide range of information. Assistance will be provided to facilitate the performance of securities market oversight functions and the conduct of investigations, studies, or prosecution.
Canada—jurisdictions of CFTC (Quebec and Quebec)		Canadian Government, Quebec Securities Commission, Commission des valeurs mobilières du Québec, French Futures Exchange, and National Exchange	June 1999 through Aug. 1999	Written agreement to extend and provide regulatory and exchange to improve in information sharing on Regulation 20 issues.

(continued)

Country	EU Organization	Foreign Organization	Year	Description
Canada—(synthesis of Ottawa and Quebec)	CFPC and the National Financial Regulator	Order Securities Commission Commission des Securities et des Marchés (CSM) Quebec, Quebec Financial Exchange and Montreal Exchange	1997, 1998	This is a financial information-sharing/FOI that permits financial information sharing on a request, making initial law enforcement request to designated foreign entities—those examined for cooperation with (CFR) prior Regulation (d) within request time. For request time are first requested by CFPC that are shared within requested by Canada and Quebec regulators and vice versa.
Costa Rica	SEC	Comisión Nacional de Valores	Oct. 1999	Amorstrong-creating treaty to create a framework for sharing investigatory information and provide technical assistance for development of Costa Rican regulatory system.
France	SEC	Commissariat des Opérations de Bourse	Dec. 1999	Comprehensive administrative agreement for enhancing the performance of regulatory regulations, ensuring compliance and sharing investigatory information.
France	SEC	Commissariat des Opérations de Bourse	Dec. 1999	Understanding that goes beyond the administrative agreement, to engage financial conductors to coordinate market oversight and resolve differences between the respective regulatory systems.
France	SEC	Commissariat des Opérations de Bourse	Sept. 1999	An exchange of letters in which each country consenting information sharing and investigatory measures (SEC, or French securities exchanges). Includes understanding that exchanges may enter into financial information agreements.
France	CFPC	Commissariat des Opérations de Bourse	June 1999	Comprehensive administrative agreement for sharing investigatory information. The agreement calls for periodic reports information in their files, provide responses of papers, and report the production of documents. The agreement will not be implemented until (CFR) receive additional statutory authority.
France	CFPC	Commissariat des Opérations de Bourse	June 1999	Amorstrong-creating MOU permitting all products in the production to be included for investigation. This comprehensive to be exchange from regulatory information regulations. That is, CSM, however the system directly with French regulators and agencies. Contains specific in the MOU are included in ensure adequate customer protection. The MOU provides for financial sharing on a request and on request basis to cooperate with monitoring and compliance matters including cross-border account-based trading systems.

(continued)

**Appendix 2
U.S. Government and Regulator
Cross-Border Agreements**

Country	U.S. organization	Foreign organization	Date	Description
Hungary	SEC	Hungarian Financial Services Supervisor and Budapest Stock Exchange	June 1999	Understanding on mutual interests to provide the development of sound securities regulatory mechanisms and the integration of the Hungarian securities industry to a broader international framework. SEC will consult with and provide assistance to the State Securities Supervisor and the Budapest Stock Exchange and provide technical assistance for the development of the Hungarian securities market.
Indonesia	SEC	Indonesian Capital Market Supervisory Agency	Mar. 1999	Understanding expressing mutual interest to promote the development of sound securities regulatory mechanisms and the integration of the Indonesian securities system into a broader international framework. SEC intends to consult with and provide advice to the Indonesian Capital Market Supervisory Agency to establish and implement an ongoing technical assistance program in the development, administration and expansion of regulated securities markets.
Italy	SEC	Consob (Italian National Committee for the Control of Stocks)	Sept. 1999	Commitment in which each party agrees to become the exchange information clearing in the administration and enforcement of U.S. and Italian securities laws. This commitment is based upon mutual understanding and a strong exchange relationship between the authorities.
Japan	SEC	Ministry of Finance	May 1999	General MOU in which each party agrees to facilitate requests for surveillance and investigatory information relating to the enforcement of U.S. and Japanese securities laws in a cross-border context.
Luxembourg	SEC	Initial Services Luxembourg	May 1999	MOU for the exchange of information relating to initial public offerings of securities issued through public offering, the creation of the International Securities Clearing Corporation and Centre for London de Services Multinationaux (L.S.C. CMF SA), to conduct the electronic matching of international supply and orders of securities in the private placement market.
Mexico	SEC	Comisión Nacional de Valores	Oct. 1999	Comprehensive MOU on performance and technical and mutual assistance for the exchange of information.
Netherlands	Government of the United States	Government of the Kingdom of the Netherlands	Dec. 1999	Comprehensive agreement on sharing information among SEC, Netherlands Securities Commission, Dutch Central Bank, and the Securities Board of the Netherlands. This agreement is signed under Memorandum of Understanding.

(continued)

**Appendix II
U.S. Investment and Regulatory
Cross-Border Agreements**

Country	U.S. organization	Foreign organization	Date	Description
Norway	SEC	Finans Norge (Security and Investment Commission)	Sept. 1991	Comprehensive MOU for sharing a wide range of information concerning nonpublic material information in the securities market and enforcement of securities laws.
Singapore	OPIC	Ministry Authority of Singapore	Mar. 1994	Information-sharing cooperation for implementing the mutual effect system between Singapore International Monetary Exchange and the Chicago Mercantile Exchange. ¹
Singapore	OPIC	Ministry Authority of Singapore and Singapore International Monetary Exchange	Sept. 1991 through Feb. 1994	Comprehensive partnership OPIC Regulation 30 permitting time waiver in Singapore report and exempt orders from U.S. securities for foreign futures and options transactions. This agreed to discuss Singapore financial information for U.S. as an on-request basis.
Sweden	SEC	Swedish Financial Supervisory Authority	Sept. 1991	Comprehensive for the exchange of information and the establishment of a framework for cooperation.
Switzerland	Government of the United States	Government of Switzerland	Nov. 1987	Comprehensive covering each party's interest in providing mutual assistance in criminal matters and voluntary administrative proceedings. Both parties also agreed to use the U.S.-Swiss treaty as a framework where possible.
United Kingdom	OPIC and U.S. Futures Board	Securities and Investments Board and FSA	Sept. 1991	Financial information-sharing MOU allowing U.S. future commission members conducting business in the U.S., for example from U.K. capital rules, report for U.S. about their regulations. If OPIC and U.S. OPIC member firm.
United Kingdom	SEC and U.S. Securities (SEC)	Securities and Investments Board, Bank of England, and OPIC	Aug. 1994	Financial regulation MOU for OPIC's U.S. broker system for mutual business in the United Kingdom for example from U.S. capital rules PLUS regulations from information on the capital position of these firms.
United Kingdom	OPIC and National Futures Association	Securities and Investments Board, Association of Futures Brokers and Dealers, Investment Management Regulatory Organisation, and the Financial and Futures Authority	May 1994	Financial information-sharing MOU similar to U.S. brokers who are exempted from U.S. capital requirements.
United Kingdom	OPIC	Securities and Investments Board	May 1994	Time waiver in the Sept. 1991 transaction MOU that provides for the sharing of monitoring information relevant to OPIC's Regulation 30 rules.

Continued

**Appendix I
U.S. Government and European
Financial Institutions Agreements**

Country	U.S. organization	Foreign organization	Date	Description
United Kingdom	SEC and FDIC	Department of Trade and Industry and Securities and Investments Board	July 1987	Comprehensive MOU for sharing a wide range of proprietary and confidential information. Reestablishes communication outside existing financial ties, the sale of foreign equity, establishing connections. U.S. customers have direct use of confidential knowledge. Informal and explicit connections. U.S. customers made private decisions on U.S. markets. The making of financial decisions in material decisions, and absence of reporting obligations.

The actual effect upon is an international clearing mechanism that permits clearing members of one exchange to establish or liquidate a position through the execution of a sale or purchase order.

In 1987, SEC has signed the agreement with the U.S. Bank Exchange (SEC), the Federal Reserve of London (FED), the U.S. Bank Exchange (SEC), and the U.S. Bank Exchange (SEC).

SEC has signed the agreement with the Securities and Futures Authority, the Financial Institutions, the U.S. Bank Exchange (SEC), and the U.S. Bank Exchange (SEC). The U.S. Bank Exchange (SEC) has signed the agreement with the U.S. Bank Exchange (SEC) and the U.S. Bank Exchange (SEC).

**Table 12. 1985 Agreements with
Regional and International
Organizations**

Regional or International organization	Date	Description
The International Organization of Securities Commissioners (IOSCC)	September 1987	IOSCC facilitates flow of accurate information, provide assistance, and regulatory tools, for sharing information.
Committee of the European Communities	September 1987	Joint statement regarding efforts to work together to facilitate the exchange of information and the provision of financial assistance between SEC and the relevant member countries of the European Community.
Inter American Development Bank and the United States Economic Commission for Latin America and the Caribbean	September 1987	Understanding regarding efforts of parties to work together to promote the growth of multinational markets and expand equity participation throughout Latin America and the Caribbean.

The members of IOSCC that signed the resolution include Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, France, Hong Kong, Italy, Mexico, New Zealand, Norway, Spain, Sweden, Switzerland, Taiwan, Thailand, and Uruguay, the United Kingdom, and Uruguay.

SEC's records reflect the IOSCC resolution on March 15, 1987.

**Appendix I
U.S. Government and Nonpayer
Overseas Agreements**

Table I-3: Surveillance Agreements Between U.S. BRGs and Foreign BRGs

Country	U.S. BRG	Foreign BRG	Date	Description
Belgium	CRGB	Brussels Stock Exchange	June 1980	MOU with regard to issuance and distribution of financial reports on CRGB and the Brussels Stock Exchange
Canada	ASST. Sec. (CRGB), Consolidated Canada NASD-NYSE Pacific, and Tradeomatic exchanges	Toronto Exchange, Montreal Exchange, and Albion Stock Exchange	Jan. 1980	Agreement with information sharing Information Committee Group members
France	AMSE	Securities and Futures Commission	Oct. 1980	General MOU for sharing market surveillance information where information is shared may concern but is not limited to the SAC 40 Index. ⁷
France	CRGB	Securities and Futures Commission	Oct. 1980	General MOU for sharing market surveillance information where information is shared may concern but is not limited to the SAC 40 Index.
France	Ministry of Finance	Securities and Futures Commission	Oct. 1980	General MOU for sharing market surveillance information where information is shared may concern but is not limited to the SAC 40 Index.
France	AMSE	Securities and Futures Commission	Oct. 1980	General MOU for sharing market surveillance information where information is shared may concern but is not limited to the SAC 40 Index.
France	Future Stock Exchange	Securities and Futures Commission	Oct. 1980	General MOU for sharing market surveillance information where information is shared may concern but is not limited to the SAC 40 Index.
France	Philadelphia Stock Exchange	Securities and Futures Commission	Oct. 1980	General MOU for sharing market surveillance information where information is shared may concern but is not limited to the SAC 40 Index.
Germany	IFSE	European Wirtschaftsbund	Sept. 1980	Agreement for sharing market surveillance information in order comprising CRGB or assets in SAC ⁷
Germany	Philadelphia Stock Exchange	European Wirtschaftsbund	Sept. 1980	Agreement for sharing market surveillance information in order comprising CRGB or assets in SAC
Germany	CRGB	European Wirtschaftsbund	Nov. 1980	Agreement for sharing market surveillance information in order comprising CRGB or assets in SAC
Germany	AMSE	European Wirtschaftsbund	Nov. 1980	Agreement for sharing market surveillance information in order comprising SAC or assets in SAC

(continued)

Appendix
U.S. Government and Regulator
Cross-Market Agreements

Country	U.S. BPO	Foreign BPO	Date	Description
Germany	Frankfurt Stock Exchange	Frankfurt Wapaparkbörse	June 1999	Agreement to sharing market surveillance information on stocks, including S&P 500 exposure in DAX.
Japan	NYSE	Tokyo Stock Exchange	May 1999	Agreement to sharing market surveillance information on the International Market Index. Reduced to December 1999 to cover corporate and the Nikkei 225. Reverted again in September 1999 to cover options contracts on the Japan Index.
Japan	DAX	Tokyo Stock Exchange	May 1999	Agreement to assist in detecting and preventing possible manipulative activities involving futures and options contracts based on the Nikkei 225 and the Tokyo Stock Exchange Index and the Morgan Stanley Capital International S&P 500-related stocks comprising these baskets.
Japan	Chicago Board of Trade	Tokyo Stock Exchange	May 1999	Agreement to share information regarding trading in futures and options contracts on S&P 500. ¹
Japan	DAX	Tokyo Stock Exchange	Jan. 1999	Agreement to sharing market surveillance information on stocks based on S&P 500 and the Morgan Stanley Capital International S&P 500 index and stocks comprising these baskets.
Japan	Other Tokyo and Korea Exchanges	Tokyo Stock Exchange	July 1999	Agreement to sharing market surveillance information on the Japanese Market Index. Reduced to September 1999 to cover options contracts on the Japan Index.
Malaysia	NYSE	Kuala Lumpur Stock Exchange	Sept. 1999	Agreement to share information on securities, interest, and derivative products.
Malaysia	ChX	Kuala Lumpur Stock Exchange	Sept. 1999	Agreement to share information on securities, interest, and derivative products.
The Netherlands	AMEX	European Options Exchange	July 1997	MOU for sharing market surveillance information related to the Major Market Index. ²
The Netherlands	AMEX	Amsterdam Stock Exchange	July 1997	Agreement to share information on securities, interest, and derivative products listed on other exchange.
The Netherlands	NYSE	Amsterdam Stock Exchange	July 1997	Agreement to share information on securities, interest, and derivative products listed on other exchange.

(continued)

Appendix I
U.S. Investment and Regulatory
Cross-Border Agreements

Country	U.S. SEC	Foreign SEC	Date	Description
The Netherlands	CMR	Amsterdam Stock Exchange	Apr. 1982	Agreement to share information on securities, futures, derivatives (including futures), in either exchange.
The Netherlands	CMR	Amsterdam Stock Exchange	May 1982	Agreement to share information on securities, futures, derivatives products traded in either exchange.
Singapore	CMR	Singapore International Securities Exchange	Aug. 1984	An agreement to provide for sharing of market surveillance information relating to the mutual share system.
Singapore	SEC	Stock Exchange of Singapore	June 1987	Agreement to exchange information about securities and derivatives (including futures and forwards) traded in either market system.
Sweden	AMER	Stockholm Nordborg	Feb. 1981	SEC to share market surveillance information regarding any securities or derivatives products traded in either exchange.
Sweden	CMR	Stockholm Nordborg	Feb. 1981	Agreement to share market surveillance information regarding any securities, futures, or derivatives products traded in either exchange.
Sweden	SEC	Stockholm Nordborg	May 1981	Agreement to share market surveillance information on any securities, futures, or derivative products currently traded in either exchange.
Switzerland	AMER	Association of Swiss Stock Exchanges	Feb. 1981	Agreement to share market surveillance information relating to securities, including any futures, derivatives securities, or underlying securities.
Switzerland	SEC	Association of Swiss Stock Exchanges	Feb. 1981	Agreement to share market surveillance information relating to securities, including any futures, derivatives securities, or underlying securities.
Switzerland	CMR	Association of Swiss Stock Exchanges	June 1984	Agreement to share market surveillance information relating to securities, including any futures, derivatives securities, or underlying securities.
United Kingdom	SEC	London Stock Exchange	Apr. 1984	Agreement to the exchange of current information on a select group of securities.
United Kingdom and Republic of Ireland	SEC	London Stock Exchange	May 1984	Agreement to share information relating to the FT-SE 100, and the FT-100, Eurostoxx 100 and EAX.
United Kingdom and Republic of Ireland	CMR	London Stock Exchange	May 1984	Agreement to share information relating to the FT-SE 100, and the FT-100, Eurostoxx 100 and EAX.
United Kingdom and Republic of Ireland	SEC	London Stock Exchange	May 1984	Agreement to share information relating to the FT-SE 100, and the FT-100, Eurostoxx 100 and EAX.

(continued)

**Appendix I
CIA, Department and Executive
Intelligence Agreements**

Country	Effective date	Description
The Netherlands	September 15, 1982	Agreements provided under the Dutch Police/Intelligence Service, serving both in documents, providing records, taking testimony, producing documents, and executing requests for searching, records and service of subpoenas. Search and seizure requests that ordinarily are in evidence when the potential offense is punishable in such countries by imprisonment for over 1 year or is specifically listed in the Annex to the Treaty. Evidence and information obtained may not be used for purposes other than those stated in the request.
Switzerland	January 1983	This treaty entered into force in criminal matters was the first multilateral in which the United States was a party. It provides for direct assistance in criminal matters including testimony, taking evidence, obtaining statements and testimony of witnesses, producing and authenticating physical records, and serving judicial or administrative documents. The treaty was supplemented by its exchange of letters describing certain language used in its provisions. SIC requires evidence provided under the treaty when it is investigating a possible future testing violation in the purpose of determining whether to refer it to the Department in order to criminal prosecution. SIC requires evidence gathered during the investigation to not prejudging either to the case or crime.
Turkey	January 1, 1983	This bilateral and mutual assistance treaty relates to all offenses within the jurisdiction of justice in either of the requesting countries. The agreement provides for taking evidence, serving judicial documents, taking testimony, producing documents, serving of process, and complying the requests of witnesses before court of the requesting country. One of its main aim is limited to the purpose of the investigations, criminal proceedings, and foreign courts.
United Kingdom (Cape Verde Islands)	March 1988	A memorandum of understanding concerning the Cape Verde Islands' providing for assistance and mutual legal assistance in criminal investigations and prosecutions that involve offenses punishable by more than 1 year's imprisonment under either a U.S. or Cape Verde law. The treaty authorizes cooperative administrative specific areas including border crossing and financial resources creation. Mutual assistance to be provided includes the taking of testimony, producing documents, records and witness of evidence serving documents, taking evidence, and interviewing criminally-related assets. An exchange of letters explain the treaty in Montserrat, St. Christopher-Nevis-Anguilla, the British Virgin Islands, and the Turks and Caicos Islands.

Not yet growing in force.

To be able to enter into.

Organizations Visited or Contacted

Australia

Regulator
Australian Securities Commission

Exchanges
Australian Stock Exchange
Sydney Futures Exchange

Other
Attorney General's Department

Canada

Regulator
Canada Securities Commission

Exchanges
Toronto Stock Exchange

France

Regulator
Commission des Opérations de Bourse
Conseil de Marché à Terme

Exchanges
Bourse des Bourses Françaises

Other
Ministère de l'Économie et des Finances

Germany

Regulator
Ministry of Finance
Deutscher Bundesbank

Exchanges
Frankfurter Wertpapierbörse
Deutscher Terminbörse

Other
Federation of German Stock Exchanges
Deutscher Bank

Hong Kong

Regulator
Securities and Futures Commission

Exchange
Stock Exchange of Hong Kong

Japan

Regulator
Ministry of Finance

Exchange
Osaka Securities Exchange
Tokyo International Financial Futures Exchange
Tokyo Stock Exchange

Luxembourg

Regulator
Commissariat aux Finances
Institut Monétaire Luxembourgeois

Other
Circulars of Instruction

The Netherlands

Regulator
Minister of Finance
Dutch Central Bank
The Committee Board of the Netherlands

Exchange
Amsterdam Stock Exchange
European Options Exchange

Other
Econometrische Controledienst

**Republic of China
(Taiwan)**

Regulator
Securities and Exchange Commission

Exchange
Taiwan Stock Exchange

Singapore

Regulator
Monetary Authority of Singapore

Exchange
Singapore International Monetary Exchange
Stock Exchange of Singapore

Switzerland

Regulator
Federal Banking Commission
Federal Finance Administration

Exchange
Eurex Options and Financial Futures Exchange

Other
Federal Department of Foreign Affairs
Federal Office for Police Matters
Swiss Bankers Association

United Kingdom

Regulator
Bank of England
Securities and Investment Board
Securities and Futures Authority

Exchange
London Stock Exchange
London International Financial Futures Exchange

Other
Financial Prudential Office

United States

Regulator
Commodity Futures Trading Commission
Securities and Exchange Commission

Exchange
American Stock Exchange
Chicago Board of Trade
Chicago Mercantile Exchange

Coffee, Sugar, and Cocoa Exchange
Commodity Exchange Incorporated
Kansas City Board of Trade
Minneapolis Grain Exchange
National Association of Securities Dealers
New York Cotton Exchange
New York Futures Exchange
New York Stock Exchange
Pacific Stock Exchange
Philadelphia Board of Trade

Other
Department of Justice
International Surveillance Group

International Organizations

Committee of the European Communities
International Organization of Securities Commissions
Fédération Internationale des Bourses de Valeurs

Comments From the Securities and Exchange Commission



THE COMMISSION

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20540

May 11, 1978

Mr. Gerald S. Finner
Director, American International
and Foreign Service
P.O. Box 100000, Washington Field
Washington, D.C. 20536

Re: INTERNATIONAL INTELLIGENCE AND POLICE SERVICE (IIPS)
SECURITY INFORMATION, SECURITY AND INFORMATION IN INTELLIGENCE
AND POLICE SERVICE

Dear Mr. Finner:

I am writing regarding the updated and draft report which analyzed the current status of intelligence service policy, activities, operations; the report details the critical need for cross-border cooperation among national intelligence and the importance of obtaining sufficient resources to secure the necessary technological intelligence systems.

The U.S. intelligence service are one of our greatest strengths. The internationalization of these service presents an opportunity for growth and also requires an effort to coordinate and integrate the intelligence and security information (ISI) is required to be in the forefront in meeting these challenges for national, state, local and other systems.

The draft report recognizes the SEC's efforts in this area of cross-border information sharing and security information. The progress that has been made in that area. The progress reflects the fact that the development of a framework for international cooperation and exchange of the ISI's resources is the next step in the process of increasing security. That requires that we have the political will and the capacity to develop the necessary infrastructure to support the development of the ISI's resources. The next step is to develop the necessary infrastructure to support the development of the ISI's resources. The next step is to develop the necessary infrastructure to support the development of the ISI's resources.

The SEC has made a substantial commitment to providing security information intelligence with national intelligence agencies and will be followed by the Department of Defense by the SEC's commitment to this area. The Department of Defense has made a commitment to this area. The Department of Defense has made a commitment to this area. The Department of Defense has made a commitment to this area. The Department of Defense has made a commitment to this area.

cooperative arrangements play is facilitating the initiatives to expand access to the self-employment market. In sum, the development of the SME's entrepreneurial spirit during the past few years has created a remarkably improved and expanding the service and manufacturing sectors of the U.S. domestic market. This also accounts for the increased intensity of these sectors.

In the early 1980s, when the challenge to western foreign-aid was at its height, American leaders including President Reagan and Vice President George Bush visited the United States to promote the American position. They were met by a chorus of protest from members of the American peace movement. These protesters, many of whom were young people, were often violent and noisy. They were seen as a threat to the American position in the world. The American position was that the United States was the only superpower in the world. It was the only country that had the power to protect the world from nuclear war. It was the only country that had the power to protect the world from terrorism. It was the only country that had the power to protect the world from the threat of communism. The American position was that the United States was the only country that had the power to protect the world from the threat of nuclear war. It was the only country that had the power to protect the world from terrorism. It was the only country that had the power to protect the world from the threat of communism. The American position was that the United States was the only country that had the power to protect the world from the threat of nuclear war. It was the only country that had the power to protect the world from terrorism. It was the only country that had the power to protect the world from the threat of communism.

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During the tenure of the Commission, one of its highest priorities was to assist in the development of the country's economic and social infrastructure. This was done through the provision of technical assistance, training, and financial support to the government and private sector. The Commission also played a key role in the formulation and implementation of national development plans and policies. Its efforts were aimed at promoting sustainable economic growth, improving the standard of living, and ensuring the equitable distribution of resources. The Commission's work was characterized by a strong commitment to transparency, accountability, and the participation of all stakeholders in the development process.

Comments From the Commodity Futures Trading Commission



COMMODITY FUTURES TRADING COMMISSION 400 South W. Washington St. Room 2000-1000

April 28, 1982

Mr. Robert L. Page
Director, Commodity Futures
Trading Commission

Mr. Robert L. Page
Director, Commodity Futures
Trading Commission
400 S. W. Washington, N.W.
Washington, D.C. 20001

Dear Mr. Page:

We have reviewed the proposed Regulatory Notice to amend the Commission's Regulations regarding the registration of foreign futures brokers. The Commission's Regulations regarding the registration of foreign futures brokers are contained in the Commission's Regulations regarding the registration of foreign futures brokers. The Commission's Regulations regarding the registration of foreign futures brokers are contained in the Commission's Regulations regarding the registration of foreign futures brokers.

The Commission's Regulations regarding the registration of foreign futures brokers are contained in the Commission's Regulations regarding the registration of foreign futures brokers. The Commission's Regulations regarding the registration of foreign futures brokers are contained in the Commission's Regulations regarding the registration of foreign futures brokers. The Commission's Regulations regarding the registration of foreign futures brokers are contained in the Commission's Regulations regarding the registration of foreign futures brokers.

We further believe that the above stated objection that the Commission has not attempted to obtain specific information regarding the ability of foreign futures brokers to provide the same level of protection to U.S. investors as U.S. futures brokers is unfounded. The Commission's Regulations regarding the registration of foreign futures brokers are contained in the Commission's Regulations regarding the registration of foreign futures brokers. The Commission's Regulations regarding the registration of foreign futures brokers are contained in the Commission's Regulations regarding the registration of foreign futures brokers.

The Commission's Regulations regarding the registration of foreign futures brokers are contained in the Commission's Regulations regarding the registration of foreign futures brokers. The Commission's Regulations regarding the registration of foreign futures brokers are contained in the Commission's Regulations regarding the registration of foreign futures brokers. The Commission's Regulations regarding the registration of foreign futures brokers are contained in the Commission's Regulations regarding the registration of foreign futures brokers.

See pp. 2-47 and 50.

agrees to the opportunity to provide this report and accept the time and/or resources that are required under the Act and not place it in their respective area.

Sincerely,


Andy J. Brown
Chairman

Major Contributors to This Report

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Related GAO Products

[Permitting Firms Assessing the Need to Regulate Additional Financial Activities](#) (testimony, Apr. 28, 1999).

[Securities Markets: Challenges in Formulating International Capital Standards Remain](#) (testimony, Mar. 14, 1999).

[Global Financial Markets: International Coordination Can Help Address Information Gaps](#) (testimony, Sept. 1997).

[Government-Sponsored Enterprises: The Government's Exposure to Risk](#) (testimony, Aug. 18, 1997).

[European Community Is a Financial Services Competitiveness Under the Single Market Program](#) (testimony, May 28, 1996).

[International Finance: Regulation of International Securities Markets](#) (testimony, Apr. 14, 1995).

[Options and Settlement Systems: The Study, Options, and Future Markets: Are SEC at Risk](#) (testimony, Apr. 11, 1995).

[Securities Trading: no Action Needed to Address National Market System Issues](#) (testimony, Mar. 21, 1995).

[Typical Series Financial Services Industry Issues](#) (testimony, Nov. 1994).

[Securities Regulation: Efforts to Detect, Investigate, and Prioritize Insider Trading](#) (testimony, Aug. 8, 1994).

[Bank Payment Issues Related to Report of the Glass-Steagall Act](#) (testimony, Jan. 22, 1993).

[Financial Markets: Preliminary Observations on the October 1997 Crash](#) (testimony, Oct. 22, 1997).

[Securities Regulation: Securities and Exchange Commission Oversight of Self-Regulators](#) (testimony, Sept. 1993).

[Securities and Futures: How the Markets Developed and How They Are Regulated](#) (testimony, May 1993).

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Abstract

